



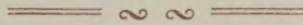
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Ontario Legislative Assembly [Committee]
Select committee on Administration of
Justice
Proceedings



PROCEEDINGS
of the
SELECT COMMITTEE OF THE
ONTARIO LEGISLATIVE ASSEMBLY

APPOINTED TO ENQUIRE INTO AND REPORT
UPON CERTAIN MATTERS CONCERNING THE
ADMINISTRATION OF JUSTICE IN THE PROV-
INCE OF ONTARIO.



Vol. 17.

Tuesday, August 21, 1951.



R. C. Sturgeon,
Official Reporter,
Room 121,
Parliament Bldgs.

S E V E N T E E N T H D A Y

Toronto, Ontario,
Tuesday, August 21st, 1951,
10.30 O'clock A.M.

- - - - -

The further proceedings of this Committee
reconvened pursuant to adjournment.

All parties present.

Same appearances as heretofore noted.

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THE CHAIRMAN: Gentlemen, we will come to
order. Mr. Lennox is still the witness, and has been
sworn.


OSWALD ELMER LENNOX

A witness previously heard and now recalled, who having
been already sworn, continues his testimony as follows.

MR. JOLLIFFE: Mr. Chairman, just before we
continue with Mr. Lennox --

THE CHAIRMAN: I have a couple of matters
I want to mention.

MR. JOLLIFFE: Very well; go ahead.



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THE CHAIRMAN: I have some correspondence with the Securities and Exchange Commission in Washington. That is one matter I want to mention to the Committee. I think I might read the letter I received from them,

We also have a proposal from Mr. Houck with reference to the Racing Commission, which I think we should consider. We might deal with that first.

Mr. Houck has written that in view of the disclosures which have recently been made before the Racing Commission, that we should enquire into that situation.

MR. HOUCK: Mr. Chairman and Members of the Committee; I have written the Hon. Attorney General (Mr. Porter) and sent a copy to Mr. Jolliffe, saying that I thought it was our duty, being duly appointed by the Government, to take some part in connection with the proceedings before the Racing Commission. I have not one thought that the Racing Commission is not doing a good job. On the contrary, I think it is doing a great job, but, as you know, racing entails a great deal of interest by the public, and a great financial outlay, as far as the public is concerned.

As the Racing Commission is a commission appointed by the Government, I think we should go into it, just to see what it is doing. I realize this may

not be the opportune time to call the Commission before the Committee, because the investigation is going on now, and is making an appeal which is apparently satisfactory to the public, which has shown itself in the betting at Fort Erie, which happens to be in my riding, which I think was twenty-two percent. up this year, and at Stamford, in Niagara Falls, they had one of their biggest days last Saturday.

I think this has aroused a great deal of public interest, and I think we should call the Chairman of the Racing Commission, if not the other members of the Commission, after they have completed their work.

I so move, Mr. Chairman, that at some future time, we call the Chairman of the Racing Commission before this Committee.

MR. JOLLIFFE: I will second that motion, Mr. Chairman. At the same time --

THE CHAIRMAN: I do not know that we need a seconder in the Committee.

MR. JOLLIFFE: Perhaps not.

However, I do see certain difficulties. I think it might be of value to this Committee to know directly rather than by hearsay how the Racing Commission is proceeding.

On the other hand, I can see the difficulty the Chairman of the Racing Commission might be in, if he was to appear before us in public. He is conducting an investigation with the assistance of the police, much of which is necessarily confidential. There are prosecutions pending, and if I were the Chairman of the Racing Commission I would not wish to speak very freely about it in public, pending those proceedings.

On the other hand, I think in principle that Mr. Houck is right, and we should learn directly if it is practicable, from the Chairman of the Commission how the Commission is proceeding, and whether adequate facilities are available to the Commission to enable them to carry through to completion, the job which it has undertaken.

I support the proposal on principle, but I am a bit concerned about the method of making it work.

THE CHAIRMAN: I think Mr. Houck's motion was "At some future time".

MR. HOUCK: Yes, Mr. Chairman.

THE CHAIRMAN: And that he would allow this investigation by the Racing Commission to proceed a little further and at an opportune time, it might be quite in order to call the Chairman of that Commission

before us.

MR. JOLLIFFE: That is quite true, but the difficulty is, Mr. Chairman, that there are prosecutions pending. You and I both know there may be convictions and there may be appeals, which will consume a number of months.

At what point is it going to be feasible for the Chairman of the Racing Commission to discuss the matters with us in public? That is what I am doubtful about.

MR. HOUCK: I would be perfectly agreeable to leaving it to the Chairman of this Committee and the Chairman of the Commission for discussion.

THE CHAIRMAN: I would be glad to speak to the Chairman of the Racing Commission and discuss the matter from all the points of view which have been mentioned, and come back to this Committee and report as to what his views may be, and then we can decide whether we wish to call him immediately, or after the lapse of a certain time.

MR. GRUMMETT: I think we should leave it for some considerable time, because if we called him now, he would be handicapped, and so would we, because so much depends on charges which might be laid. He

would not want to divulge too much information. I was rather wondering if we were over-stopping the bounds. I do not think we should call him now. The longer we put off calling Mr. Bigelow, the better I think it will be.

MR. HOUCK: In my motion, I made it "At some future date", and I think the Chairman of the Racing Commission will be happy to appear.

THE CHAIRMAN: I am sure he will. Is it the will of the Committee that it be left that way for the time being?

MR. JOLLIFFE: I think our Chairman might speak to the Chairman of the Racing Commission, and I think the question we should direct to him now -- and it might be embarrassing to the Chairman of this Committee to ask that question -- is whether he feels he has sufficient help to carry through the job that is to be done.

My point is that I think the most important question at the moment, from our point of view, is whether the Commission is getting all the assistance and all the help it needs in order to carry through the enquiry it has launched. As far as I know, it has.

But that is just my impression. It is not based on any direct evidence at all.

I am informed they have had the assistance of the Ontario Provincial Police and the R.C.M.P. I think that would be adequate, but I do not know whether they are running into any technical difficulty, or whether they feel they are adequately serviced in the way of staff, or whether they think they need more help. That I do not know. If I were the Chairman, I would not want to talk about it publicly, because he might be disclosing his problems to the very people he is looking for.

THE CHAIRMAN: I will speak to the Chairman of the Racing Commission and inform him of the views expressed here today and will come back with his views, at any rate, and the Committee can deal with them as they see fit. Is that satisfactory.

SEVERAL COMMITTEE MEMBERS: Yes.

THE CHAIRMAN: Then I assume Mr. Houck's motion will be carried?

SEVERAL COMMITTEE MEMBERS: Yes.

(Motion agreed to)

THE CHAIRMAN: I think at this stage, I

should introduce the correspondence with the Securities and Exchange Commission, of Washington. After our last meeting, members will recall that a resolution was passed to the effect that the Chairman of the Securities and Exchange Commission of Washington, or someone he might appoint, should be invited to appear before this Committee, to explain the difficulties which it encountered in the securities dealings across the Border.

An invitation was sent by the Secretary and that was followed by a letter from my secretary and I have now a reply from Mr. Entire -- Richard B. McEntire -- who signs himself as a "Commissioner". I assume he is one of the members of the Securities and Exchange Commission of Washington. That would appear from the letter-head.

The letter is dated August 17th, 1951, and reached my office yesterday. It is rather a lengthy letter, but I think I should read it in full.

MR. JOLLIFFE: It will not be necessary for the reporter to take it down.

THE CHAIRMAN: Oh no. It can be copied from the original. This letter reads:

Dear Mr. Attorney General:

I have been designated by the Commission to reply to Mr. Vickers' letter inviting a representative of this Commission to appear before the Committee on Administration of Justice in Ontario which has been hearing evidence regarding sales of Canadian securities to purchasers in the United States.

The excesses committed in the United States by a small but extremely active group of Toronto stock promoters, who for the last 15 years have been selling stock to U.S. citizens not only in open and wilful defiance of our laws but also by fraudulent methods, have created a tender spot in the relations between our two countries. Naturally, these activities have been a source of great concern to our Commission. In the past, this particular area has been marked by very real misunderstandings, and this, we believe, has contributed in no small measure to the failure of both nations to arrive at a solution to this unfortunate problem. For that reason, we consider it essential that your body be furnished with an accurate statement as to our objectives, the facts available to us, our

suggested solution to the problem and certain other matters discussed at the hearings before you.

The question remains, however, whether it would not be more feasible to provide you with such information through correspondence, rather than by appearance before the Committee. We believe it inevitable that a legislative inquiry such as you are conducting will involve considerations as to possible changes in your local laws or bearing upon the administration of those laws. We feel that active participation in your inquiry by way of actual appearance before the Committee undoubtedly would involve us in such questions upon which we should not express views. In the circumstances, we conceive that such an appearance would be construed by many as an unwarranted intrusion by an agency of a foreign government into domestic political affairs. Since this could result in a severe set-back to the fine work that recently has been done in an endeavor to work out an effective solution to the problem, we have concluded that we should express our views to you in this letter rather than by appearance before the Committee.

It would appear from the hearings held to

date that, despite our efforts, numerous mis-
impressions continue to prevail in Canada as to
our objectives, powers and actions. It is, of
course, exceedingly difficult to treat all of these
matters at length in this document. We shall,
however, try to highlight here those aspects which
best explain our role in the area under discussion
and which seem to us to be most in need of
clarification. If other matters not treated herein
are of interest to the Committee, we will be glad
to deal with them upon request. We trust, however,
that any such inquiries will not involve us in any
discussion of purely internal matters related to
provincial law or administration.

First, a word as to our objectives. We
understand that it has been suggested to you that
the SEC apparently desires to block the flow of
American capital into Canadian ventures. This
suggestion is so wide of the mark that it is
reminiscent of the propaganda which the violating
share-pushers have been spreading in Canada for
many years.

We wish to state with the utmost emphasis
that this Commission is wholly in favor of the
free flow of capital between our two countries

and that we have no prejudice of any kind against the investment by our citizens in Canadian enterprises. Naturally, we cannot administer the laws entrusted to our jurisdiction on the basis of a double standard. We, therefore, insist that non-residents who seek access to our capital markets must do so in compliance with the laws which govern any resident who engages in similar activities. In turn, we believe it would be unconscionable for American securities dealers to engage in transactions in Canada without complying with the laws your legislators have established -- and this whether or not the particular security dealer happened to agree with all aspects of those laws.

I think that a general understanding of our federal securities laws is essential if the Commission's attitude is to be construed properly. The basic law administered by the Commission is the Securities Act of 1933, which also is known as the "truth-in-Securities Act." This is not the only law under our jurisdiction, but since it is the one which has primary relationship to new issues, it is the only one of our statutes of immediate interest to your Committee and I

shall confine my remarks to it. To the extent that you may be interested in the nature of the other phases of Commission regulation, you will find a brief description of the applicable statutes in the enclosed pamphlet entitled "The Work of the Securities and Exchange Commission."

In describing the Securities Act and its administration, I would like to paraphrase certain remarks I had occasion to make before the Montreal Stock Exchange on May 30, 1950. As I stated at that time, the Securities Act of 1933 is simply a disclosure statute. It provides for the registration of securities as the means by which all relevant and pertinent facts are to be made available to the public. Thus, before any securities may be offered publicly in this country by the use of the mails or through the instrumentalities of interstate or foreign commerce, an effective registration statement regarding those securities must be on file with this Commission. The Act also requires that a prospectus containing the salient facts set forth in the registration statement be delivered to all purchasers. There are certain exemptions from these requirements provided for in the statute.

The statute invests the SEC with absolutely

no power to pass upon the merits of securities issues. It permits anything to be sold at any price, requiring only that information necessary to make possible a fair appraisal of the securities be given to those who are invited to purchase. The Commission is neither required to, nor allowed to, "approve" or "qualify" a security, and the law even makes it a criminal offense to represent to anyone that an issue has our "approval."

Thus, I trust it is clear that the Securities Act does no more than require that the truth be told; it leaves with the individual investor the responsibility of investment decisions. The Commission has no power to concern itself with whether or not the securities being offered are speculative or to discriminate unfairly against the issuer because of his residence.

The Act also provides for civil and criminal sanctions against fraud in securities transactions and, obviously, the Commission is determined to do everything in its power to stamp out any appeal for investment funds addressed to our citizens, whatever the point of origin, so long as fraud is involved. Although the various states also have fraud laws,

as a practical matter it is the Commission as a federal agency which is primarily concerned with frauds which cross state lines or which emanate from foreign sources to various parts of this country.

The enforcement of the statutory provisions described above represents the limits of our objectives as regards the sale in the United States of securities of issuers located in Canada or any other country.

I should like to emphasize that the only major problem in the securities field that has ever existed between our two nations has revolved about the activities of this fringe group of stock sellers whose operations are, in our view, characterized by plain and unvarnished fraud. It is their activities that we have been intent on stamping out. We have been ever careful to emphasize that these offenders are a minority segment which is wholly unrepresentative of the great majority of securities dealers in Toronto, in the Province of Ontario and in Canada generally. However, their activities have been so wide-spread and they have victimized so many of our investors that this distinction often has become lost. As a result, in recent

years there has grown up what would appear to be a general distrust among certain segments of our public against investment in any Canadian securities. But the harm that has been done in this respect flows from these frauds and not from any action taken by this Commission. Once the facts are understood, and it is our purpose to highlight them for you here, we think it plain that no fair-minded person could object to our aims or misconstrue them in any way.

What are the promotions against which we have protested so vigorously over the years? So much has been said and written about these operations that any further discussion of them may seem unduly repetitive. You may be quite familiar with what we shall say in this respect. Nevertheless, we are anxious to insure that you have before you our version of these activities, which is based wholly on investigation and documentary materials within our files. We are confident that even a brief exposition of these schemes will demonstrate that the problem is not one relating to compliance with the "difficult" registration laws of another jurisdiction, but rather is one revolving about fraudulent conduct such as is

interdicted by the laws of both our nations and which is proscribed by our common moral precepts.

We have found these promotions to be characterized by a striking uniformity in modus operandi. Apparently any innovations are quickly discovered and widely imitated. The approach to the investor, the lure or bait offered to him, the misrepresentations made, chiefly over the telephone, are very much the same irrespective of the particular dealer involved or whether the security relates to a gold mine, uranium mine or oil property. Indeed, in certain cases we have found the promotional literature for separate ventures to be identical, except for the name of the security. In view of these facts, we believe we are warranted in describing these promotions in general terms. Although the volume of promotions may vary from time to time, sales campaigns attended by some or many of the devious methods and misrepresentations described below continue up to the date of this letter. There has been some recent improvement in the quality of the literature mailed to the States, but misrepresentations in the familiar pattern continue to be made, chiefly over the telephone.

As you, of course, know the promotions in question are invariably in stocks which are associated in the public mind with the production of sudden and spectacular wealth; oil properties, gold mines, and, in recent years, uranium. Every advantage is taken of the fact that there indeed have been highly publicized gold and oil discoveries in Canada in recent years. The property sponsored by the selling dealers is more often than not said to be "adjacent" to one of these successful developments. In one such case investigation revealed that what was described as the "adjacent" producing property was actually 1700 miles away.

BY THE CHAIRMAN:

Q. Have you any information about that?

A. Yes, I have heard over and over again that Indigo represented itself as being adjacent to Noranda, when it is actually out in the Northwest Territory. I have not been able to find any information at all --

Q. Have you anything from the Securities and Exchange Commission which would support that?

A. Just verbally.

Q. They have not written to you at all?

A. No.

Q. Nor sent you any affidavits in connection with that case?

A. They might have, but it would be possibly four or five years ago.

THE CHAIRMAN: Then the letter goes on:

"In the case of gold mines, it is usually represented, not only that the property is "adjacent", but also that it is on the same vein.

The limitations of space do not permit me to discuss in any detail the various methods employed, to whet the appetite of the potential investor. In some cases he is sent, free of charge, literature which purports to be something in the nature of an objective "market guide," but which in fact is designed to stimulate his interest in a particular security and, as demonstrated in some cases, to separate him from what good securities he does own."

BY THE CHAIRMAN:

Q. Have any examples of that been brought to your attention by the Securities and Exchange Commission?

A. No. I have heard it, but I do not think it was dealt with specifically.

MR. JOLLIFFE: I think there are some examples of that in Mr. Lennox' decisions relating to certain properties.

THE CHAIRMAN: I think that is right, but I am wondering if they have made any direct complaints to Mr. Lennox from Washington on this specific matter.

THE WITNESS: No, I do not recall any.

THE CHAIRMAN (Reading):

What I would like to do is to list briefly the type of misrepresentations which we have found are usually made in the course of telephone solicitations. Unfortunately, it has been our experience that many telephone salesmen will say practically anything, however false, if it helps effect a sale. It is in connection with telephone solicitations that there is the most striking similarity in the methods employed. This is not particularly surprising since certain salesmen transfer their licenses frequently from dealer to dealer.

Our files disclose many cases in which

investors are falsely told of "oil strikes" or are given glowing "reports" of mining engineers. Misrepresentations are made as to the current status of the properties. Properties which are nothing more than staked-out claims are said to be producing ore in commercial quantities, oil wells which could never produce profitably are described as commercial producers and representations of similar type are made with respect to uranium properties."

BY THE CHAIRMAN:

Q. Mr. Lennox, have you any information from the Securities and Exchange Commission in regard to that class of false information?

A. Yes. I have some affidavits which mostly deal with telephone conversations. As a matter of fact, Mr. McEntire, for the most part, is dealing with telephone conversations, and it is in my evidence that I said it is virtually impossible to control that.

Q. And you say they did send you some affidavits?

A. I have affidavits here which deal with telephone conversations, and with misrepresentations.

Q. Were they sent to you from Washington?

A. They either were sent from Washington, or were

sponsored by Washington.

Q. How many affidavits have you received altogether? Do you know?

A. I think I have about five or six here now.

Q. Five or six?

A. Yes.

Q. That covers a period of how long?

A. About three years.

Q. And have you the affidavits here?

A. Yes.

THE CHAIRMAN: Perhaps I should not interrupt this letter to go into these details.

MR. JOLLIFFE: He said he had five or six here now. Does that mean there are others, or are they all here?

THE WITNESS: No. I have already given evidence that I can only trace certain ones as authentic complaints, but since then I have dug out those affidavits.

BY THE CHAIRMAN:

Q. About these same complaints?

A. Yes.

MR. JAMES: I think we had better clear

up the letter as we go along.

MR. GRUMMETT: I think it would be better to make a note of things and clear them up afterwards.

MR. JOLLIFIE: Yes. There are so many points in the letter, that might be the best way.

THE CHAIRMAN (Reading):

" It is our experience that one misrepresentation almost invariably made is that the stock is about to be listed on the Toronto Stock Exchange, whereas no arrangements for listing had ever been made. The prospect is generally told that the shares are being offered to him "below the market," "in advance of the public offering," "for a limited time only," or he is told that only a limited number of shares can be purchased by any one person. Investigation in these cases has revealed that this was pure high-pressure "sucker-lure," that there was no market for the stock, that often the offering had been in progress for some time; there was no limitation on the period of offering, and the number of shares that would be sold was limited only by investor resistance.

In promotion after promotion, investors also are told that the stock is about to advance materially in price. In this connection they may be told that a well-known company of good repute is about to buy in or, as often happens in uranium ventures, that the U.S. or Canadian government was about to contract for the company's output. They almost always are told that no risk is attached to this type of "investment." And finally, in case after case, the misrepresentation is made that the monies invested will be devoted to the development of the property. As you know, this cannot be true in these mass-mailing promotions which require substantial expense for writers, layout men, salesmen, printing, mailing and telephoning and thus necessitate extremely high mark-ups if the deal is to be a profitable one for the stock seller. In addition, vendor's shares are involved in these distributions and the proceeds therefrom do not go to the company's treasury. The investor cannot exercise an informed judgment unless he is fully aware of these facts.

There appears to be no limitation to the ingenuity employed by some of these telephone

salesmen. And indeed, the gullibility displayed by many of our investors is equally unlimited. In one case, the chief factor which led to an investment in a uranium venture was the statement, pantingly made on the telephone, that "I have just returned from the fields and the Gieger counters are working." Plainly, the most likely victims of these schemes are the unsophisticated members of our public who are most in need of the protection designed to be provided by the securities laws."

BY THE CHAIRMAN:

Q. Have you any information about this case?

A. No.

Q. This is new to you?

A. Yes.

MR. JOLLIFFE: The Gieger counter?

THE CHAIRMAN: Yes, the "Gieger counters are working".

MR. JOLLIFFE: They usually work if there is any uranium there.

THE CHAIRMAN: Perhaps they do sometimes when there is not.

(Reading):

" The foregoing summary is not derived from isolated examples; it epitomizes the sort of overreaching we have experienced over the course of 15 years. The examples given are based on the affidavits of so many of our citizens, that their force cannot be minimized by suggestions that the affiants were "easy victims" as to whom sales pressure was unnecessary, or that investors are not above "gilding" their stories after they have gambled and lost."

BY THE CHAIRMAN:

Q. I understood you to say that you only had about half a dozen affidavits sent to you.

A. That is all I have been able to locate. I think perhaps if I gave a specific instance, it will throw some light on the matter.

When I went down to Ottawa and met some members of the Securities and Exchange Commission, to discuss the question of extradition, the SEC opened the discussion by producing a lengthy affidavit -- I think it contained over twenty pages -- but they had not sent that affidavit to the Ontario Securities Commission. They had it prepared for their own purpose. Even after that, they did not send the affidavit, until I

wrote to them and requested production of the affidavit, and later I got back word from Mr. Holden, one of the counsel, indicating that he had to get permission from the full Commission before forwarding the affidavit to me, on my request.

THE CHAIRMAN (Reading):

" We are firmly convinced that the mail-order operations as we have known them serve no legitimate purpose and must be stopped in the interests of both our nations. We are quick to admit that we have been unable to cope effectively with these abuses. We are equally ready to understand the various practical and legal obstacles which have confronted Canadian regulators.

The evidence concerning these crimes, committed by persons operating across the border, is in major part to be found in the United States. Yet, our geographical contiguity and the advanced state of telecommunications that we enjoy have made it possible for the offenders to continue their operations without putting foot in the United States. And, as we shall point out, there does not exist between us an extradition treaty which would enable us to apprehend the

offenders for violation of the federal statutes on which our indictments must be based. Nevertheless, we have had our Department of Justice present the evidence obtained in a number of these cases to federal grand juries which have returned indictments charging fraud in unmistakable terms".

BY THE CHAIRMAN:

Q. Mr. Lennox, was there not at least one case where the American authorities were entitled to extradition but they did not move?

A. In our opinion, it was an extraditable offence, and we sent the information on to the Securities and Exchange Commission, and at the same time, advised them the crime, if any, was not committed within our jurisdiction, and we had consulted with the local Crown Attorney on that point, before abandoning the prosecution.

Q. In other words, it was a case of an offence which you did not prosecute, because you decided that the crime was not committed within the jurisdiction?

A. That is it.

Q. But also you were of the opinion that it was an extraditable offence, in that case?

A. Yes.

Q. And you gave that information -- all the

relevant information which you had -- to the Securities and Exchange Commission at Washington?

A. Yes. I brought the file down today because Mr. McEntire telephoned me yesterday from Washington, and he seemed to be somewhat concerned about the whole thing, so I brought the matter down.

I do not know whether Mr. McEntire has been guided solely by newspaper reports, or whether he has an transcript of the evidence -- I do not know whether that is possible or whether he has been discussing the matter with Mr. Williamson, who has been present at these hearings.

Q. At any rate, the point in connection with extradition which was raised in this letter; there was one case, according to your statement, where they might have obtained extradition, at least, in your opinion you thought they could -- but they did not act at all toward that end.

A. That is correct. But I am not suggesting that our opinion is better than theirs--

Q They may have had some other opinion?

A. Yes.

Q. But they did not even try?

A. No.

Q They did not move to extradite a case, when it

might have been extraditable?

A Yes.

Q. When did that occur?

A. In 1950.

Q. Well, that is a matter on which you have a file, and if any member of the Committee wants to enquire into that, he can.

A. Yes, of course. That was 1949 and 1950.

THE CHAIRMAN: Perhaps I had better go on with the letter.

MR. GRUMETT: Before you do, Mr. Chairman, may I ask this question?

BY MR. GRUMETT:

Q. What was the nature of the offence, Mr. Lennox? Maybe it was a minor one, and they did not think it was worthwhile taking any steps.

A It was fraud -- property obtained by pretenses.

THE CHAIRMAN: Unless it was fraud under the Criminal Code, that creates a difficulty.

MR. JOLLIFFE: If you will permit me, Mr. Chairman, may I ask a question?

THE CHAIRMAN: Certainly.

BY MR. JOLLIFFE:

Q. Was there not a test case pressed by the American authorities?

A There was a case out in Alberta --

Q The Rosen case?

A I am not sure of the name of the case. They referred to that. There was one in Toronto some years ago, I believe, where Judge Barton refused an extradition order. I have not made a study of them.

Q Neither have I, but I have here (indicating) a copy of Tremear, and at page 469 I see it says -- I have not got the Rosen case, but according to my recollection, it was a test case on that point. Tremear says:

"Only some offences of obtaining by false pretences are extraditable under the treaty arrangement with the United States. A supplementary convention of 1890 added to the list of crimes specified in the Ashburton Treaty of 1842, obtaining, 'any money, valuable security or other property'.

"It has been held that those words must be construed by the ejusdem generis rule, and that, therefore, the offence of obtaining goods by false pretences, is not extraditable. In

re Rosen --"

THE CHAIRMAN: But to obtain money by false pretences, would be?

MR. JOLLIFFE: Apparently it does not apply to offences of false pretences and apparently in the Rosen case, as I recall it, the Alberta court -- was it Alberta or British Columbia? I think it was Alberta.

THE WITNESS: Yes, it was Alberta.

MR. JOLLIFFE: -- held that the securities were goods, not money.

BY THE CHAIRMAN:

Q. In this case, Mr. Lennox, which you have mentioned, was the offence obtaining money by false pretences?

A Yes, Mr. Chairman.

Q. So that the Rosen case would not apply perhaps to that?

MR. JOLLIFFE: It was a stock deal of some sort.

BY THE CHAIRMAN:

Q. At any rate, that is the situation; there was one case which occurred within your recollection -- a recent case -- where they might have applied for extradition, but they did not do it? Whatever their

reasons may have been, that is the fact? That is correct, is it not, Mr. Lennox?

A Yes.

THE CHAIRMAN: I might just re-read the last paragraph:

" The evidence concerning these crimes, committed by persons operating across the border, is in major part to be found in the United States. Yet, our geographical contiguity and the advanced state of telecommunications that we enjoy have made it possible for the offenders to continue their operations without putting foot in the United States. And, as we shall point out, there does not exist between us an extradition treaty which would enable us to apprehend the offenders for violation of the federal statutes on which our indictments must be based. Nevertheless, we have had our Department of Justice present the evidence obtained in a number of these cases to federal grand juries which have returned indictments charging fraud in unmistakable terms. Our inability to apprehend the defendants has made the return of indictments little more than a formal gesture. Nevertheless, they represent

findings by a body of impartial citizens of our country that there is good reason to believe that frauds have been perpetrated. In a few instances we have been successful in apprehending the violators. In two cases, which have received wide notoriety, bonds of \$50,000 and \$25,000 respectively were posted and then forfeited when the sharopushers returned to Canada. To the best of our information, they have continued to lurk on the fringes of the mail-order securities business."

BY THE CHAIRMAN:

Q. Do you know what cases this refers to?

A Yes, the \$50,000 case --

Q I do not want you to give names at the moment.

A They are the ones we discussed before, and I am pretty sure I know the other one. Neither of them are registered with the Commission at the present time.

BY MR. JOLLIFFE:

Q. Are any of the companies of which they are directors, registered with the Securities Commission?

A No, I do not think so. I do not think the individuals are directors of any company -- not that I know of.

BY MR. GRUMMETT:

Q. Is there a close check kept, Mr. Lennox?

Once a man has committed an offence of that nature, have you any sort of an index system for keeping tab on what he is doing from the time of the offence?

A We have a complete card index. Every matter is noted on that card. Even if it is only a cease and desist order, which is simply a routine matter. I think we have one of the best "morgues" in the province up there.

BY THE CHAIRMAN:

Q. The best what?

A Morgue.

MR. GRUMMETT: The record may be a morgue but the man is still living.

THE CHAIRMAN: They do seem to die in a somewhat lengthy way.

BY MR. JOLLIFFE:

Q. What I do not understand in the case mentioned -- that is, the \$50,000 bail case -- if it is the same individual I am thinking of; he has been recently reported and publicized as being very active in promoting mining companies.

A He still is not a director or officer of any

company that I know of.

Q And if he is simply a large shareholder, there is nothing you could do about it?

A He is not disclosed as a large shareholder.

Q If he held an interest of more than five percent, it would have to be disclosed? Is that right?

A Yes. I put it up to the individual only recently about a company, and his answer to me was "I am only a fiscal agent". He said "I am working for a lot of important men".

Q Let us clear this up. What does that mean? What do you think that means, and what is he doing?

MR. GRUMMETT: Surely there should not be loop holes to permit him to operate in that manner.

THE CHAIRMAN: I think the question "What is he doing", would be of interest.

BY MR. JOLLIFFE:

Q. And what is his explanation of the term "fiscal agent"? That is not normally known in the Securities Act.

A He said he went up representing a group of Toronto people, looking over this property, and that was his interest; he was paid for his trouble. I do not say that I believe him, but it will be an awfully

hard thing to prove it is not true.

BY THE CHAIRMAN:

Q. Sort of a general promoter. Whatever promoters do, they are sort of a vague people who go about and find some mining claim, which they think might be made to look attractive, and they try to get some financial group interested to put up enough to prove a little more, and they try to get somebody to put up enough to advertise a bit, and then get some registered broker to go out and sell some of the shares? Is that about what the activities of these back-ground promoters would be?

A Yes. I suppose the Commission could dig up a lot of news or "dirt" about these mines which this chap started to work on five or six years ago, but what good will come out of it? The prospectus contains a favourable report from a prominent mining engineer, and they are underground and I do not know that any good could come out of it from the public's point of view, or from the point of view of existing shareholders, by trying to make a story about it.

BY MR. JOLLIFFE:

Q. Oh well --

BY MR. GRUMMETT:

Q. If these men were associated with any venture, I think the venture would start under a cloud as far as your Commission is concerned. You know that these men were known in the past as having carried on improper trading and operation, and as long as they are associated, even in an unofficial capacity, do you not think that your Commission should then be suspicious?

A We are suspicious, Mr. Grummett. One of our first audits conducted under the Section of the Act which permitted us to go in and examine the affairs of any company qualified and accepted by the Commission, was in regard to facts reported concerning this man's company. That was the first one where we went in and we made a very extensive audit, one of the most extensive we have held, and we found there was not a flaw we could see from an accounting point of view in that company.

However, there is another individual -- and it is my opinion, for what it is worth -- who is a far greater menace than this man in Ontario. We went in and audited some of his companies and two of his issues are now held up. They cannot be offered for sale to the public because the Commission will not accept them for a minute until they get their matters straightened out. That man is hardly known. This other chap who jumped

bail -- everything wraps around him, because he has a reputation as a sort of an international "clown", as it were, but that is not conclusive. I can pick worse men than that for you.

BY MR. JOLLIFFE:

Q. Perhaps we will come to that later in this enquiry, but I do not understand how this can happen unless these articles (indicating) by Mr. Lewis in the St. Louis Star-Times are a complete invention, because -- and I am proceeding on the basis, as I said earlier in this enquiry, that if I think it is necessary to mention names, I will mention names, so that there will be no misunderstanding. I think the individual referred to as jumping bail is named DePalma, who has been mentioned before in the evidence here. He himself is one of the more important people, but what I cannot understand, and perhaps you can explain, how this happened, as I cannot understand it, unless this article (indicating) is a complete invention. This says:

"Albert Edward DePalma, the one-time St. Louis waiter who became one of Toronto's most notorious promoters, reigns over his ramshackle empire of moose pasture stock enterprises at

185 Bat St. in the heart of the financial district."

I understood you to say he is not licensed?

A No.

Q In any capacity?

A No, and has not been since 1946.

MR. JOLLIFFE: The article goes on to say:

" The legend on the translucent glass of the main office door recites some of DePalma's activities as follows:

TANTALUM REFINING & MINING CORP. OF AMERICA, LTD.

INDIGO CONSOLIDATED GOLD MINES, LTD.

PETROMINE EXPLORATION & FINANCE CO. LTD.

DOMINION RESOURCES PUBLICATIONS

JOHN W. HAMMOND CO.

Tantalum, Indigo and Petromine are branded as stock frauds by the U. S. Securities & Exchange Commission and the U. S. Post Office.

DePalma says he has no connection with Dominion Resources Publications or the John W. Hammond Co. These concerns, he says, are entirely separate."

THE CHAIRMAN: What is the name of that paper?

MR. JOLLIFFE: The Financial Observer.

Then perhaps, I can skip further down the article, which I have no doubt you have read, Mr. Lennox, until it says this:

"Finally, we were summoned into the presence of DePalma by one of the slightly-winded runners who said:

'The Chief will see you now'."

Then there was a rather colourful description of their interview, and he reports that DePalma very frankly discussed the charges against him in the States, and what it would cost him to keep out of the States, and he makes the statement that his whole life for years has been dedicated to Canadian mining, and then the statement is made:

"The Indigo promotion is underwritten by Mining Financiers, which is DePalma. His name, however, never appears in the promotional literature."

Then it goes on to say:

"Promoting a gold mine, DePalma told us, is a difficult and often "thankless" task.

We figure to sell a stock issue we have to send out a million pieces of mail," he said.

"When I was promoting Palamina at \$10 a customer, my replies were so small even I was

surprised, and I'm accustomed to the risks in this business.

I figure that only one-fourth of 1 per cent of the send-out responded, that is, sent in the \$10. You can see that the promoter doesn't make as much money as you think.'"

And so on, at considerable length. Other members of the Committee can look at this article if they wish.

Now, Mr. Lennox, unless this article is a complete invention, how can this man carry on as chief of the enterprises and apparently act as promoter when he is not licenced, and apparently when he is not a promoter?

A He does not have to be licenced.

THE CHAIRMAN: He does not sell to the public.

BY MR. JOLLIFFE:

Q. If he controls over five percent. it should be disclosed.

A He is not a director or officer.

Q No, he is not a director or an officer, but he appears to be the chieftain of this empire. How is it done?

A I do not know what Mr. DePalma told Mr. Lewis but I guage Mr. Lewis by one remark he made about me.

He said he asked me a question, and that I glared at him as if he was the village idiot and then made a reply.

In all my dealings with the Civil Service, I think there is something in the word "Civil" and people who come into my office, no matter who they are, are treated civilly, and if Mr. Lewis' account of his interview with DePalma is the same as the little he said about me, I think that pretty well tells the story.

Q That may be. I do not know Mr. Lewis, and have no idea how reliable he is, but is this correct, to the best of your knowledge and belief, that this man is, in effect, in control of the enterprises mentioned here -- the three mining companies mentioned here.

A I know he was in control of Indigo. That was started out as the diversified Yellow Knife and is now the Indigo, over a period of years. I do not know where his interest is now; it does not say, unless "once a promoter, always a promoter", which is my opinion on the matter, but if we are going to place any value in an engineer's report -- this happens to be an eminent engineer -- the Indigo has some prospects,

when you take into consideration the fact that gold is a pretty dead issue right now, having regard to production.

THE CHAIRMAN: Shall we adjourn for five minutes?

MR. JOLLIFFE: Yes.

---whereupon a short recess was had.

---upon resuming.

- BY MR. JOLLIFFE:

Q. I was sorry to interrupt you, Mr. Chairman, when reading the letter, but the point I would like to get cleared up is this. We have learned from Mr. Lennox' evidence, and looking at the Act, that a man has to be licensed in order to function as a broker-dealer or as a broker, or as an investment dealer, or as an investment counsellor or as a salesman and yet it is apparently still possible for certain individuals to play a very active, if not a leading role in the promotion of speculative securities without coming into any one of these categories.

As a matter of fact, this was drawn to my attention since the last meeting of this Committee, and I wondered what had happened to some of these men who lost their licenses as a result of your decision

and one would suppose they found something else to do, such as going into the real estate business or something of that kind, but I find in any case I have come across, they are still in the securities business in some different capacity.

Where is the gap? Will you explain where the gap is which makes it possible for a man to control a group of companies, and be the "big push", or as they called him, "the chief", without being a licensee in any of the classes I have described, without being a director or officer of the company, and without disclosing more than a five percent. interest in the stock? How can that be done?

A If they do not disclose their interest -- it is not the man who does not disclose his interest who is guilty of an offence; it is the people who sign the prospectus.

Q That is right, and who would be directors?

A The directors and the promoters and the underwriters.

Q Does it not seem likely to you that many of these directors are ^{pure} "fronts" for the actual promoter -- I should not have said "pure fronts", I should simply have said "fronts".

A That is one of our greatest difficulties now

of having a list of nominal directors for the purpose you suggest no doubt, but also respectable people in Ontario will not take the risk of going on a board of directors now, in the event of stock being offered across the border, and having a secret indictment issued against them or a fraud order.

These people are just nominal directors. They are creeping up all the time, and it prevents you from identifying a deal.

I know men in Ontario who have a wonderful reputation in the mining field, and if you look at one of their deals, with their names on it, you feel pretty sure you are getting an honest run for your money, but if you have these nominees creeping up all the time, it is just another one of those deals.

BY MR. JAMES:

Q. In other words, this man could control the stock on somebody else's money? He would not have five percent. but other people would have the money invested, and he would be controlling the stock on their investment?

A We were talking about dummy directors at the moment. In this case, if this man had a hidden interest, he is not the one who has committed the offence, because he has not been required to sign a prospectus. The

people who sign are the people who are offering a false document to the Commission.

I think you mentioned Peg Tatulum. Of course, that is not qualified for sale to the public.

BY MR. JOLLIFFE:

Q. But was it not offered in the States?

A That was years and years ago, Mr. Jolliffe.

Q When it was offered?

A Yes. It is not being sold to the public now.

Now, in regard to Indigo; there (indicating) is a chart approved by an eminent engineer. I think the engineer's name should be made known to the Committee (handing the document to Chairman), and the indications are they are trying to make a find, and it shows some very high values in gold. I am not a mining man, but that is what it shows.

Q That is in the Northwest?

A Yes.

Q That is the one which is not next door to Noranda?

A Yes.

BY MR. DOWNER:

Q. It is not listed on the Toronto Stock Exchange?

A No.

Q It is not?

A No.

THE CHAIRMAN: Shall we go on with the letter?

MR. JOLLIFFE: Yes, I think so. I am sorry to interrupted.

THE CHAIRMAN (Reading):

" I believe this is an appropriate point at which to dispel the notion that many of our complaints relate to outdated cases and to offenders whose activities have been stopped. In the testimony before you reference was made to the fact that we are most vocal about a former securities dealer whose license was revoked in 1946 and who thereafter forfeited the \$50,000 bail bond noted above. The inference made was that we repeatedly used this colorful figure as a prime example of the offenders although he has long since been put out of business. The fact is, however, that he continues to be identified with current stock promotions in Toronto. Although it is true that his license was revoked in 1946, it was found by our Postmaster General in 1950 that he was the moving spirit behind the promotion of Palamina Gold Mines Limited. While

this person no longer is subject to the jurisdiction of the Ontario Securities Commission, he now operates as a "middleman" or "underwriter" in ventures presently seeking American capital."

MR. JOLLIFFE: That is the same man we have just been discussing.

THE CHAIRMAN: (Reading):

"That such status provides a perfect medium for operation through fronts seems to us to be too obvious to require further emphasis.

The stock jobbers also have been most resourceful in thwarting the effect of the postal orders which the Postmaster General of the United States has issued in an effort to halt their unlawful activities in our country. Since the testimony before you reflects some confusion regarding these postal orders I would like to discuss them briefly. The Postmaster General has issued orders in two types of cases. First, he has issued "fraud orders" based on findings that fraud is being committed through use of the mails. The other type is the so-called "fictitious name" order against persons using a fictitious or assumed name or title in the conduct of an

unlawful business by use of our mails. It should be noted that in the cases under discussion, each and every one of the promotions involves wilful violation of our federal registration provisions. The effect of the orders in either case is to require the postal authorities to mark any mail addressed to the person covered by the order with the stamp "fictitious" or "fraudulent" as the case may be and to return it to the sender.

From July 1949 to August 1951 our Postmaster General issued 70 fraud orders against Toronto Securities dealers."

BY THE CHAIRMAN:

Q. Mr. Lennox, are those the same 70 you mentioned in your evidence the other day?

A I am reasonably satisfied that they are.

Q Those are the only 70 of which you know?

A I got a list of the 70 in May. There have been more since.

Q This is up to August, 1951. At any rate, the fraud orders you mentioned the other day; my recollection is you broke those down and showed they really only applied to 20 different individuals.

A To 20 people who are presently registered with the Commission.

Q And the others in many cases of fraud orders were duplications in the sense that they were against a concern or a different name, but it was the same people behind it?

A Yes. I eliminated duplications. I eliminated fictitious names orders; I eliminated the names of those firms or individuals who already had their registrations cancelled. I never suggested in my evidence, as I recall it, that the SEC were purposely confusing fictitious name orders and fraud orders. I said that unfortunately when the matter was reported in a section of the press, there was no distinction made, and I thought it was unfair to the people who were simply subject to the fictitious name order.

Q It makes quite a different general picture, I suppose, whether there are 70 people who are supposed to have committed fraud, or 20 people?

A Yes.

MR. GRUMETT: I think Mr. Lennox' distinction is this 20 are still registered with the Commission.

THE WITNESS: There were 20 registered with the Commission in May. I do not know whether they are registered now. There are cancellations going on all the time.

BY THE CHAIRMAN:

Q. But the fraud orders issued, when you salted them all down, you found it only applied to 20 active individuals who were licensed?

A Who still survived.

Q Who were still there.

A As I recall, there were about 15 subject to fraud orders, which had already been cancelled by the Securities Commission. For instance, our own postal authorities issued fraud orders against people who had been out of business for months and months and months.

BY MR. JOLLIFFE:

Q. But the 20 you mentioned would not include a man like DePalma, who is not licensed at all, and against whom there may be a fraud order?

A A Oh, no.

MR. GRUMETT: And there are many others like him.

MR. JOLLIFFE: And who has not retired from the business, as far as you know.

THE CHAIRMAN (Reading):

"Nineteen so-called fictitious name orders were entered during the same period. Each order is based upon and accompanied by detailed

findings of fact as the enclosed samples show. Current notice of the issuance of these orders is sent monthly to each securities commissioner in North America through the medium of our Securities Violations Bulletin.

A somewhat striking illustration of the caliber of the persons involved is obtained when one considers the methods they have employed to thwart the effect of the postal orders. Our postal employees are only authorized to stop mail sent to the specific person named in the order at the address stated therein. This the violators were quick to learn. For example, persons subject to orders have supplied investors with return envelopes which do not contain their names, but rather are addressed to "Accounts Dept." or "Statistical Department." In some cases, different suite numbers or different street addresses were placed on the envelopes. It is the unfortunate fact that in other cases some offenders surrendered their licenses and secured new ones under different firm names. As a result of these subterfuges, the postal authorities in many cases have had to issue order after order covering the same person and promotion.

" A good example is provided in the case of A. Garfield Heyes, Ltd."

That is a matter I think you mentioned, Mr. Lennox, the other day.

THE WITNESS: Yes.

THE CHAIRMAN: It was brought up, at any rate.

THE WITNESS: Yes.

THE CHAIRMAN (Reading):

"On August 2, 1950, the Postmaster General issued a fraud order against A. Garfield Heyes, Ltd. at Toronto, Ontario, Canada, upon the basis of evidence summarized in that order. At that time the address given for the firm was 7 Adelaide Street, East, Toronto. Thereafter, on October 2, 1950, it was necessary for the Postmaster General to issue an additional fraud order since this organization, in order to defeat the initial order, was providing citizens of the United States with return envelopes addressed to "A.G. Heyes, 9 Adelaide, East, Toronto, Canada."

That is instead of "A. Garfield Heyes, Ltd."
"Again, on November 17, 1950, still another order

was required since the return envelopes again had been revised to read "Heyes Limited, Ste.1, Bank of Toronto Building, Laird Drive and Eglinton Avenue, Leaside, Ontario, Canada." Thereafter, the style appearing on the return envelopes was changed to read 'A.G.Heyes, Pres.'"

Not even on Bay Street, or near it.

MR. JOLLIFFE: Not "adjacent" to Bay Street.

MR. GRUMMETT: He thought Bay Street was getting a little "hot".

THE CHAIRMAN: Originally, he was on Adelaide Street, very close to Bay Street, 9 Adelaide Street, East.

"On February 19, 1951, evidence revealed that investors were being requested to send correspondence and remittances relating to this promotion to "D. G. Buck, Secretary, 876 Eglinton Avenue, East, Toronto, Ontario, Canada."

Shifted the buck again in this case.

"And finally, on April 17, 1951, the Postmaster General was required to issue still another order since the name and address had been changed to read "Accounting Dept., Suite One, Bank of Montreal Bldg., Leaside, Ont., Canada."

"Thus a total of six fraud orders was required in order to prevent evasion of the findings of the Postmaster General in connection with this single promotion."

I suppose that bears out what Mr. Lennox has said that some of these fraud orders represents the same person.

THE WITNESS: On the list I had, there were four, so that is a supplementary action -- two of them.

BY MR. JOLLIFFE:

Q. That is what they call "fictitious name orders"?

A No, Mr. Jolliffe.

BY THE CHAIRMAN:

Q. They issued a fraud order against these different names?

A They extend it and the person used another name.

THE CHAIRMAN: According to this letter, they first issued a fraud order against A. Garfield Heyes, Ltd. and then additional fraud orders against these other names.

BY MR. GRUMMETT:

Q. A fictitious name order would come in where

it is not possible to identify the person against whom the order has been made, but in all these cases, it was possible to identify this man Heyes as being a member of the concern?

A Supposing a person used the name "First Security" on the letterhead, they would have to give the name of the person holding majority of the shares in that concern.

BY THE CHAIRMAN:

Q. In other words, using a firm name in this province, is not illegal, as long as you comply with certain conditions.

A But the Security Act goes further and says when you use a firm name, you must give the name of the individual holding the majority interest in the partnership.

Q On the letterhead?

A Yes. Most of them are sole owners.

THE CHAIRMAN: (Reading):

" Surely, the situation under discussion requires drastic correction. The problem is not solely yours, nor is it entirely ours. It is a common problem which must be solved at once. The beneficiaries of a solution will ^{be} not

only the American investor, who will be protected against fraud, but also the legitimate small developer of natural resources in Canada. We know that our grass-roots investors are willing and indeed anxious to share in the exploitation of your vast mineral resources. They must, however, be assured that they will not be victimized and their confidence, which has been so badly shaken, must be restored if their capital is to be attracted to Canada.

We are aware of no panaceas that will guarantee attainment of these ends. We can, however, suggest the ingredients which could go a long way toward solution of the problem.

It is absolutely essential, we believe, that the problem be recognized once and for all as a mutual one, which can only be cured through joint efforts. We must recognize our full responsibility for the actions of those subject to our regulation, wherever those actions may occur, and our duty to anyone harmed by such actions, wherever he may reside. Plainly, the joint approach is a two-way street. Not too many years back it was our people who were attempting to overreach Canadians in securities

transactions. Today the excesses are being committed against United States citizens by Canadians. Tomorrow the situation again may be reversed. In either event, common action is required.

There also must be a full understanding of the laws under which the regulators in each country operate, and the constitutional and other difficulties met by them in enforcing the law. Through real cooperation, freely given, we must seek to utilize all of the weapons available to each of us to the common end of protecting innocent investors.

I think that in recent months some progress has been made in these respects. However, we are convinced that these measures cannot be really effective unless they are implemented by practical machinery which will enable us to overcome many of the impediments that have obstructed past efforts. We firmly believe and have strongly urged at all times that this machinery can be provided most simply through revision of the extradition arrangements between our two countries so as to make it certain that persons who commit securities frauds in one country can be extradited for

prosecution in the jurisdiction where, as a practical matter, the witnesses and the major evidence are to be found.

While extradition is essentially a Dominion problem, it is, of course, of real interest to you in the present context. For this reason and because so much misinformation exists in your province regarding our extradition aims, I shall take the liberty of treating the matter briefly. However, I do not think it would be profitable to attempt to engage in a full-blown legal discussion of the somewhat intricate questions that attend this many-faceted subject, and I shall not do so.

In our view, the suggestions made to you regarding the scope of the present treaty and our reluctance to proceed under it, again illustrate the danger of over-simplification. The present treaty, insofar as it is pertinent here, was agreed upon at the turn of the century. It is understandable, therefore, that it does not refer to securities frauds as they have developed and come to be recognized in more recent years. The criminal laws of our two countries have kept pace with these developments; our treaties have not.

The present treaty refers to "fraud" committed by certain enumerated fiduciaries. Unfortunately, the offenders with whom we are dealing ordinarily do not fall within the categories mentioned in the treaty. In any event, they could easily avoid assuming the required status. The only other treaty designation at all pertinent is that of "false pretenses" -- a crime generally recognized as being wholly inadequate to meet present-day securities swindles. This is made plain, for example, by your Criminal Code which in at least five sections covers frauds not limited to false pretenses, and by all modern securities acts, including those in each of your provinces, which definitely are not restricted in reach to the old crime of false pretenses.

Our lawyers have considered the scope of the present treaty in great detail and they have discussed the matter with Canadian counsel. In the early days of the problem we endeavored to proceed under it. We first found that as a minimum we would be required to proceed on only a small portion of the case in question, thus severely prejudicing the possibility of successful prosecution. Even after we had done

so, our attempt to bring the case within the present treaty was unsuccessful, the Canadian court finding (In re Lamar) that our federal indictment did not fall within the purview of the present treaty."

BY THE CHAIRMAN:

Q. Which case is that, of Le-a-m-a-r?

MR. JOLLIFFE: That must be in the supplement.

Does it give the year?

THE CHAIRMAN: No.

BY THE CHAIRMAN:

Q. Are you familiar with Lamar?

I think that is the case they mentioned in Ottawa, which is an Alberta case.

MR. JOLLIFFE: The Rosen case is a western case, too. It may be in the supplement.

THE CHAIRMAN (Reading):

" We are firmly convinced that revision of the present extradition treaty is necessary. In the early 1940's we offered treaty proposals that would have covered both registration violations and fraud. They were not agreed upon. Since

that time we have watched the problem become more acute, for with the postwar boom in securities there was an increased susceptibility on the part of investors to the blandishments of the fringe group. Because of the public need for quick action and since we are convinced that only those interested in perpetrating frauds will knowingly violate the registration laws of a friendly nation, we have revised our extradition proposals. We now urge that the treaty be amended so as to permit rendition in cases where fraud within the definitions found in the Canadian Criminal Code, which we think most adequately cover the conduct engaged in by securities swindlers, is charged. Your Criminal Code has, indeed, kept pace with modern developments in fraud techniques, as has ours, and today our two countries have laws which are similar in the details of fraud coverage.

No honest person can be harmed by such a revision. All of the traditional protections that surround extradition procedure would be kept intact. We fail to see how any valid objection can be made to our proposal. We believe that revision of the treaty as suggested above, with the opportunity it presents for

truly effective action and in view of its deterrent aspects, may well be the key to our vexing problem.

During your hearings a great deal was said about the registration laws in the United States and the asserted difficulty of complying with them. My own opinion is that these issues are not particularly pertinent to any consideration of the present problem. They are in a very real sense "red-herring" issues, for, as I have already stated, it is easily demonstrable that the evil that concerns us is fraud, not registration."

BY THE CHAIRMAN:

Q. At this point, may I ask you this question? I recall some difficulties of registration in the United States, and my recollection is that you made the point that because of the difficulties, certain brokers or certain people in this business took the chance of trying to sell securities in some other way?

A Yes.

Q I do not think the suggestion was ever made by you that you were condoning that at all, but that was one of the things which forced a certain group of brokers in to this more or less illegitimate type of business.

A It is just another form of smuggling. If there were no tariffs, there would be no smuggling.

THE CHAIRMAN (Reading):

"If the fraudulent sellers are put out of business, we think no one will remain who would consider wilfully violating our laws. Wholly aside from this fact, I am constrained to note once again that no matter how onerous our registration laws may seem to Canadians, they remain the law of the United States applicable not only to our own citizens but equally to anyone else who would do business here. I know of no American securities regulator who would provide any comfort, active or passive, to a resident of this country who, because he disliked our securities laws, proposed to offer securities in Canada without complying with the regulations imposed in each and every province in which his offering was effected.

Despite these ready answers, I am nonetheless anxious to discuss the point more fully in the interest of achieving better understanding of our laws.

It has been stated that the SEC's requirements are such that, as a practical matter, it is virtually impossible to register an issue

with us. You will be interested to know, however, that in the past 15 years issuers, representing every industry, type and size, have registered with the Commission \$59,053,129,000 of securities ranging from gilt-edged to hopeless. This hardly supports the criticism that our registration requirements are a bar to securities offerings.

Of the total amount of effective registrations with the Commission over this 15-year period, \$1,102,543,000 represents Canadian issues. This is further broken down as follows:

Government, provinces and cities.....	\$ 699,593,806
Industrial.....	283,171,452
Mines and oils.....	119,778,596

Total Canadian (round figure) \$1,102,543,000. "

BY THE CHAIRMAN:

Q. That would be --

A 60 issues.

Q. Let me see. A 15-year period would be a little less than 10 million a year.

MR. JAMES: About 7 million or 8 million a year.

THE CHAIRMAN: Yes, which have been registered or still in the United States.

THE WITNESS: That would be about two or three issues, approximately.

BY THE CHAIRMAN:

Q. When they talk about an "issue" being so many millions of dollars; is that the total capitalization, or is it the actual number of shares they issue?

A It would be the actual number of shares they qualify. It might be the total capitalization, or it might be less.

MR. JOLLIFFE: It may be one million shares or it may be three million.

THE CHAIRMAN: Yes. It does not certainly represent the number of shares sold. It represents the number of shares registered.

MR. JANES: Of that fifty-nine billion, one billion was Canadian?

THE CHAIRMAN: Yes, most of them were industrial and governmental.

" The specific charge was made in your hearings that our registration process is hopelessly expensive. Such matters are, of course, relative depending on the size and type of the offering, but again let us examine the

facts. The critics of our registration process generally present a distorted picture in that they attribute to registration many costs that are involved in any offering of securities. They confuse cost of registration with total cost of flotation, which is an entirely different thing."

(PAGE 2491 FOLLOWS)

Q. My recollection, Mr. Leonards, is, you are not so much criticizing the S.E.C. and their legislation, as you are pointing out that as a result of some of the provisions in their legislation, certain people were driven to this type of business, that it was one of the causes of this type of business? That is my recollection of what you said?

A. Yes. But, as I recall it, I made a distinction between flotation costs and professional costs, and in professional costs, I divided that particularly into legal and audit.

Q. At any rate, whether it is right, or whether it is wrong, your explanation is that a number of brokers feel that they are driven to this method of selling stock because of the expense and difficulty of doing it through the S.E.C. channels? Whether that is right or wrong, or can be justified, nevertheless, that is what you find is at the root of some of your difficulties? That is really what you are saying?

A. Yes.

BY MR. JOLLIFFE:

Q. They make the same complaint in a smaller way about the Ontario Securities Commission?

A. Yes, and I have every sympathy with Mr. McEntire in that.

THE CHAIRMAN: (Reading):

"According to a recent study of representative cash offerings, the average cost of flotation of registered issues, other than compensation to distributors -- but including all other expenses, was only one-half of 1% of the aggregate offering price."

MR. JULLIFFE: Will you read that again, Mr. Chairman, please?

THE CHAIRMAN: I will read the whole sentence:

"According to a recent study of representative cash offerings, the average cost of flotation of registered issues, other than compensation to distributors -- but including all other expenses, was only one-half of 1% of the aggregate offering price."

That would be on how many shares?

MR. JANES: That would be \$50,000 on a one-million-dollar offer.

MR. JOLLIFFE: Five thousand dollars.

MR. JAMES: One percent of a million is one hundred thousand dollars.

MR. JOLLIFFE: No, ten thousand dollars. You slipped on the decimal point there.

Of course, the stock offered might not all be sold, but if it was an offer of one million shares, at a par value of one dollar each, if they are all sold, on that basis, the cost would be five thousand dollars, ~~ex~~clusive of the cost of distribution.

THE CHAIRMAN: I suppose it would vary according to the number of shares they sold? One half of one percent would appear to be large if they did not sell many shares. If they sold all the shares, it would come to but very little per share.

MR. JOLLIFFE: That is right.

THE CHAIRMAN: That is one of the risks they are facing.

(Reading):

"Compensation to distributors, by far the largest cost item, obviously is not attribu-

table to registration as one must pay a commission if he wants to get his securities sold whether they are registered or not. One of the few ~~ex~~ expenses directly attributable to registration is the filing fee. It is a nominal charge set by law at one one-hundredth of one percent of the maximum offering price of the securities to be registered. Other expenses that usually attend the distribution of securities cover matters such as counsel fees, accounting expense, issuance taxes, transfer agent fees, printing and dissemination of selling literature and so forth. Admittedly some, though clearly not all, of these items, will increase where an issue is registered with a securities commission, particularly in the case of small flotations. This is as true of registration with the Ontario Securities Commission as with the S.E.C. But those of us who have studied the problem with care have been unable to determine with any exactitude just how great the increase is. In any event, it is not considerable. We readily agree that the cost of any public flotation is large;

we are firmly convinced that registration itself is not oppressively expensive.

Similarly, we do not believe that the charge that it is impossible to effect registration with the S.E.C. in a reasonable period of time can stand under analysis. Let us consider how our registration process works. The registration statement filed with us by the issuer is, in effect, a series of responses to prescribed items calling for material information about the business and financial record of the company. The filing is inspected by our staff of experts. If it appears that the statement needs to be corrected or supplemented, the staff will send a letter of comment to the issuer, suggesting the matters upon which fuller disclosure is necessary. This letter is sent within a short time after we receive the filing -- usually within ten days.

If the issuer's response to the letter of comment satisfactorily corrects the statement, the registration can become effective and the securities may be offered to the public. Under the law, effectiveness takes place twenty days after the registration

statement is put in shape. However, the Commission has the discretionary power to reduce this statutory period and thus hasten effectiveness -- a procedure known as 'acceleration'.

Statistics compiled as of June 30, 1951, show that the average number of days from initial filing to effectiveness for the 491 registration statements that became effective during the preceding year was 20.9 days. This same average applies to all Canadian industrial issues filed with us."

It does not say anything there about the mining issues.

"Of course, there are issues where a good deal more time is consumed in the registration process. This is particularly true as to certain mining and petroleum issues, although some of them, including Canadian mineral issues, do meet the 20 day average referred to above. To some extent, the delay in these cases can be said to result from unfamiliarity with our procedures --

a situation, incidentally, which experience can easily rectify. But we have found that the chief reason for delay has been the unwillingness of the issuer to make the disclosures necessary to tell the whole truth and thereby fully inform prospective investors of the facts.

Last year I had a test survey made of some twenty-eight Canadian mining and petroleum issues registered with us over a three-year period. We found that only two of the statements were held for the statutory period after being corrected according to the letter of comment. The average waiting period for all of the issues, after correction, was 6.5 days and the median 5 days, as against the twenty days provided by law.

You also have heard a good deal of generalization about the 'registration requirements' of the blue-sky laws enacted in 47 of our states. You have been told that when these are combined with S.E.C. registration the burden is truly intolerable. I would point out that the 'burden' is not

quite as great as some imagine. In the first place not all of these 47 states require registration of securities. A few (such as New Jersey) have no registration requirements at all. Certain of the others, including some of our largest states, require registration only of the dealers making the offering. In New York, for example, the registration of dealers is an exceedingly simple matter. As to the remainder, which do register securities, a great deal of co-ordination has been achieved between their requirements and those of the S.E.C. The result is that, as a practical matter, the registration statement filed with our Commission goes a long way toward meeting the requirements imposed by a number of the states. Finally, it must be remembered that compliance is required only in those states in which the offering is made. I rather doubt that the usual Canadian offering will be made in all of the blue-sky states or even in all of those that require registration.

In any event, our domestic offerors

apparently have found it possible to comply with these laws, for they do it every day. Indeed, 'blue-skying', which is the term used for the process of meeting state requirements, has become a matter of simple routine to any person at all experienced in the public offering of securities.

There is another item which I feel should be discussed herein. It is somewhat technical and hence requires rather detailed treatment. However, it is a matter which can easily be misunderstood, and if misunderstood might well create a wholly false impression of our purpose and intent. Indeed, that seems to have occurred in some testimony which has been offered to you.

The statement has been made to your Committee that a recent interpretation of the Commission's staff has had the effect of stopping normal investment in Canadian securities and thus demonstrates the Commission's desire to prevent our citizens from providing venture capital for Canadian enterprises. I regret to say that the conclusions expressed to you are in our view based upon a fundamental misconception.

of the nature of the Securities Act of 1933 and an oversimplification of the various factors involved."

BY THE CHAIRMAN:

Q. Do you know what he refers to in the statement regarding that a recent interpretation of the Commission's staff has had the effect of stopping investment?

A. That is the portion of my evidence where I said they had forbidden any registrant in the United States from accepting an order from a customer, when there were options or under-writing agreements outstanding in connection with the issue.

BY MR. JOLLIFFE:

Q. I think you connected it with the New York office of the S.E.C.?

A. Yes.

THE CHAIRMAN: I just wanted to clear up what it referred to.

The letter goes on:

"Our Securities Act, in its registration aspects, differentiates between distribu-

tions of securities and ordinary trading in securities. Registration and the delivery of a prospectus to investors are required only in connection with distributions of a particular security. One reason which impelled Congress to erect this distinction is that the pressures which might lead to overreaching of investors are most likely to occur during the course of the distributive process, rather than in connection with ordinary trading transactions. Because of the distinction referred to above, it is provided in Section 4(2) of the Act that unsolicited brokerage transactions are exempt from the registration and prospectus requirements set forth in Section 5. The Congressional reports make it plain that this exemption was designed to permit private individuals to dispose of their securities in the customary manner without any restrictions imposed either upon the individual or the broker.

We already have noted how for a number of years certain Canadian securities have

been distributed in the United States without registration, either for issuers or at the instance of holders of large blocks of vendor and option shares. Usually, this has been done by mail-order and telephone solicitation with orders being transmitted direct to the Canadian dealer. More recently, we were advised of circumstances which provided cause to believe that a different device for effecting these illegal distributions was being used. We were apprised of situations in which certain investment advisers and Canadian dealers were telling our residents to place orders for securities, which presumably were the subject of illegal distribution in this country, with U.S. brokers.

We assume that this was done on the theory that since the transaction by which the security would then be acquired would constitute an unsolicited brokerage transaction, it would be exempt from the registration requirements of the Act. Thus, it apparently was hoped that a ready-made mechanism for effecting these unlawful offerings would be

provided through domestic houses. The Commission however, did not share these views and our domestic brokers were, therefore, warned of the possible liabilities under our laws if orders for securities in the process of distribution in Canada were executed, for the reasons following.

The Commission has never conceived that the brokerage exemption was intended to permit distribution in this country of unregistered securities. We believe that the over-riding purpose of the Act -- to require registration where distributions are being effected -- controls and that anyone who in any way participates in a distribution may himself be in violation, even though the particular transaction takes the form of an unsolicited brokerage transaction. Consequently, it has been our view that if the broker knows, or has reasonable ground to believe, in the exercise of due diligence, that the person supplying the securities whether directly or indirectly, and whether through an agent or otherwise, is the 'issuer' or an 'underwriter' of the securities as defined in the Securities Act, or a dealer engaged in their distribution,

the brokerage exemption is not applicable to the transaction. In such circumstances the broker may be considered to have participated in a distribution of the unregistered securities in violation of Section 5 of the Act. On the other hand, where the broker has reasonable ground to believe, in the exercise of due diligence, that the seller in Canada is an investor, or a dealer who is not participating in a distribution of these securities, he may avail himself of the brokerage exemption. In short, securities which are the subject of ordinary trading by investors are not affected by this interpretation of our law.

That is the sum total of the advice we have given in these situations. As noted above, the geneses of the advice given is the plain injunction of our Securities Act against the distribution in this country of unregistered securities by an issuer or a person who purchases securities from an issuer with a view to public distribution. I suggest that against the background of our

experience with certain Canadian promotions, such advice was and is essential if the provisions of the law entrusted to our administration are to be carried out. In expressing this view we are not creating novel doctrine, since equivalent advice has been given in similar situations as far back as 1938.

I might add further that in view of the relatively large number of Canadian securities being offered here, certain of our brokers have suggested that it would be extremely difficult for them to keep currently apprised of the salient facts upon the basis of which the legality of their transactions will depend. In order to avoid any undue hardship, we have been engaged in discussions with persons in the industry in an effort to formulate some practical solution which will aid them in determining whether the security in question is being distributed in the United States in violation of law. We are hopeful that this aspect of the problem will be worked out soon.

I hope I have not unduly burdened your Committee with this legal discussion

of a statute with which you may not be fully familiar. It seemed to me to be necessary, however, because of the gloss placed upon our interpretation before your Committee and the conclusions drawn therefrom. I suggest to you that there is nothing ruthless or unreasonable about administration which seeks to enforce the law in the manner indicated above. This, I consider, is particularly true since the factual background of the problem was created by a fringe group of persons who have considered that they were somehow immune from the requirements of United States law although they have chosen to do business in our country.

One final aspect of the testimony before you that appears to need clarification, is the matter of so-called 'short-form registration'. Pursuant to authority granted us in the Securities Act, the Commission has adopted a conditional exemption for domestic issuers under which offerings not exceeding \$300,000 in any one year may be made without registration. In essence,

all that is required under the exemption is that certain basic items of information be filed with the Commission five days before the public is solicited. This conditional exemption is not presently available to non-resident offerors for reasons I shall touch on below.

You have been told of the meeting in Washington at which representatives of your Broker-Dealers Association requested that the conditional exemption be extended to Canadian issuers. I was not present at that meeting, but I am fully aware of all that transpired there and, since that time have discussed the matter with your officials on several occasions. I wish to make it clear that we have never attempted to trade extradition for the grant of the conditional exemption to Canadians.

This exemption was promulgated in the interest of helping small ventures. Balancing the various interests involved, it was considered that the protections inherent in registration could be dispensed with in

these cases in view of the fraud sanctions, injunctive and prosecutory, residing in the Commission. The existence of those fraud sanctions is the premise upon which the grant of exemption is based; the Commission could not properly under the law, extend the exemption to any situation where those sanctions do not exist. Obviously, they do not exist in the case of an offeror residing in a country with which we do not have an extradition treaty with reasonable fraud coverage. That is what we have clearly stated whenever the subject has been raised. We have said further that in the event that such a treaty should be agreed upon, and the requisite sanctions are thereby made possible, the Commission would give sympathetic consideration to such request and would endeavour to work out suitable terms and conditions which would provide an exemption of this general type for small Canadian issues.

I am hopeful that this discussion will assist you in making a realistic appraisal of the situation. We wish to assure you and

the people of your province that our remarks are not aimed at blame-placing or recrimination; our only purpose is to aid you in determining what steps you can take to help combat this menace more effectively. We are confident that you are approaching the problem from that point of view.

We are also confident that once the proper tools are provided and common understanding achieved, your securities regulators and ours will be able to work together effectively and problems such as this no longer will exist."

That is the letter.

EXHIBIT NO.127: Letter, McEntire to Attorney-General, as read by Chairman.

EXHIBIT NO.128: Copy Securities Act 1933 (U.S.A.) attached to Exhibit No.127.

THE CHAIRMAN: Gentlemen, I think it is time to adjourn for lunch.

---Whereupon the witness temporarily retired.

---Whereupon at 12.45 o'clock p.m., the further proceedings of this Committee adjourned until this afternoon at 2.30 o'clock.

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A F T E R N O O N S E S S I O N

Toronto, Ontario,
Tuesday, August 21, 1951,
At 2.30 o'clock p.m.

- - - - -

---The further proceedings of this Committee re-convened
pursuant to adjournment.

---All parties present.

---Same appearances as heretofore noted.

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THE CHAIRMAN: Gentlemen, we will come to
order and continue with Mr. Lennox.

OSWALD ELMER LENNOX,

A witness previously heard and now recalled, who,
having been already sworn, continues his testimony
as follows:

THE CHAIRMAN: Gentlemen, the letter from
the Securities and Exchange Commission has been read.

MR. JOLLIFFE: There are a couple of cases
I want to ask about.

BY MR. JOLLIFFE:

Q We have heard a great deal about telephone calls, both in previous evidence, and in the letter from Mr. McEntire. I notice since our last hearing that in one of your recent decisions you apparently acted on a telephone call to the United States?

A Which case is that?

Q The Halpenny case, appearing in the bulletin for February, 1951. I think I can refresh your memory. In your decision, which was by yourself, dated February 7th, 1951 -- I am referring to that case because it seems to illustrate my point regarding telephone calls, and also you appeared to have acted on affidavits in that case -- we find the following:

"On the 16th of June, 1950, Halpenny sold a resident of the United States a total of 14,000 shares of a speculative mining issue. The sales were made over the long distance telephone -- the first in the amount of 4,000 shares and later in the amount of 10,000 shares by a second long distance call. At the time Halpenny was purported to be the president of Cambridge Securities Limited

and the owner of 3,701 shares of the capital stock out of a total capitalization of 7,503 shares.

The charges contained in the affidavit of the purchaser covering misrepresentations should be accepted as being substantially correct, as Halpenny cannot recall any of the details surrounding these transactions, which are abnormally large having regard to the fact that the issue at best is highly speculative -- that the financial worth of the purchaser was an unknown factor and that Halpenny freely admits that there was no news from the property of any special significance. His attempts to justify his conduct in this case are revealing, as indicating that he always made every effort to sell a prospective purchaser to the limit by a fairly standard pattern of solicitation. Whether the purchaser's version is accepted or not, it is fairly apparent that the sale of 14,000 shares in the course of one day must have been effected by extremely high-pressure methods, in the absence of any development at the property which would warrant further

purchases over the telephone in **this** amount by a customer who had already purchased 440 shares following an offering being made through the mails.

This single instance of overloading is in itself sufficient to warrant cancellation of registration."

Then you mentioned one or two other things, and then cancelled his registration.

Mr. Lennox, I deduce from this case, first, that in some circumstances, in the absence of satisfactory evidence to the contrary, you do accept the evidence of affidavits by a resident of the United States as to what occurred in the way of misrepresentation, and, secondly, you can and do act on the basis of evidence about telephone calls.

A Well, that is substantially correct, Mr. Jolliffe, but I hold a little different view there.

I have acted on affidavits in the form of a complaint, but the established facts corroborated the essential point in the affidavit.

As I recall the decision -- even the excerpt you have read -- over-loading is a very important factor. To think that a man during the day would sell

another man four thousand shares, and in the evening go right back over the long distance telephone and sell him ten thousand more shares -- I think that, in itself, if you are going to recognize over-loading -- would justify that cancellation.

Another thing we have often stressed -- possibly not in every decision of the Commission -- in warning of these people and dealing with them, that they are selling to them blind; they are selling to a person who has no information whatsoever as to the financial worth of a security. I think that is an important factor in discouraging the use of the telephone.

BY THE CHAIRMAN:

Q In addition to that, apparently from this report, the salesman or the person responsible for the sales was questioned, was he not?

A Yes.

Q And he had no satisfactory explanation?

MR. JOLLIFFE: He could not recall any of the details.

BY THE CHAIRMAN:

Q He could not deny it?

A He was unable to deny the truth of the charges made against him.

BY MR. JOLLIFFE:

Q Is there anything unusual about this? I mean, what is described in this decision of yours sounds very similar to the complaints you get from the United States. Apparently, in this case, the evidence before you was such that you acted and you cancelled this man's registration?

A Yes, there was a satisfactory case.

But, Mr. Jolliffe, there are a great many cases -- some of these illustrations are foolish -- but a man in Western Canada was sold 20,000 shares in an oil transaction, and we thought it was over-loading. We were making a spot-check of this broker's operations, because we thought it was a high pressure "shot", as we call it, and we wrote to this chap and asked him the circumstances under which he bought this commitment, and his reply -- I cannot quote the exact words -- but the effect of it was that he lived closer to the oil fields than we did, and knew more about it, and if we would mind our own business, he could be very happy.

Q You refer to "over-loading", which is part of the jargon of the trade, rather than a term known to law; under what section of the Act is over-loading unlawful?

A It is just high-pressure salesmanship.

Q Under what section of the Act is high-pressure salesmanship unlawful?

A No particular section.

Q You act on it as being against public interests?

A Yes

BY THE CHAIRMAN:

Q That is one of the factors you take into consideration in deciding whether a license should be cancelled, that is, if there is what you think is undue over-loading?

A It is almost like a phrase coined in the trade, and used so frequently that it has almost become common, and that is "boiler room". I do not like to use the term "boiler room", because it is a hackneyed expression, but it is typical of the "boiler rooms", and the cry of the Press is to have us clean up the "boiler rooms".

BY THE CHAIRMAN:

Q This man could have appealed?

A Yes

Q But he did not?

A I donnot think he could find a lawyer optimistic enough to appeal.

BY MR. JOLLIFFE:

Q What puzzles me about these complaints is this: because unless the complaints we hear about are greatly exaggerated, I am surprised you have not had more cases like this one?

A I think what you hear is that we are flooded with complaints from the United States. That is not a fact. We are not flooded with complaints; we are flooded with enquiries.

Q In this Halpenny case, how did that affidavit come to the Commission?

A I do not particularly recall.

BY THE CHAIRMAN:

Q. You do not recollect whether it came through the Securities and Exchange Commission, or from the party himself?

A I am inclined to think we got a complaint by letter, and we asked the man to back it up with an affidavit.

Q That is, a complaint from the man himself?

A Yes.

Q The purchaser?

A Yes. I might have been careless in trying to check these affidavits, and have not apparently finalized them in a written decision. I can check that, but I am inclined to think that the investigator asked this chap to back it up with an affidavit.

BY MR. JOLLIFFE.

Q The investigator who corresponded with him?

A Yes.

Q You do not remember what part of the United States the Purchaser was in?

A No, I do not.

Q In your previous evidence you said that it is difficult to supervise salesmen who would talk on telephones to the United States. I think you said when a man talks to San Francisco, you do not know what he is doing, and you cannot get witnesses?

A I still think it is difficult to find out what a man says over the telephone. In this case, we are not dealing with what he said over the telephone, but with the result of his sales tactics, which speak for themselves.

Q But you did accept the charges contained in an affidavit by the purchaser covering misrepresentation, because your decision says that. You say you are accepting these charges as substantially correct?

A I **can** give what I consider very sound grounds for that.

Q I am not suggesting you are wrong?

A No, I appreciate that.

BY THE CHAIRMAN:

Q. Your charges were not denied by the salesman in question, when he was given an opportunity of making a full explanation?

A No.

BY I.R. JANES:

Q I suppose a fellow can go to a pay station any place and call California?

A He might, but if we found out he went to

a pay station, we would cancel his license, because the registrant has to give the Commission his operating address, and if he works from another address, it is contrary to our policy, and our rules and regulations.

Q I was thinking more of a chap who did not have a license. One of the big difficulties is with the fellows who have no licenses at all, is it not?

A As I said during my previous evidence, I would say 90% at least of our charges on consequent convictions are against people who are unregistered. That is one of the biggest parts of our work.

I can recall a case now where a man is serving a term of one year, where he went to a lawyer and got all the stuff ready for qualifications as a security issuer, and then threw it aside, and went out without qualifying the issue or getting registration in any shape or form, and sold it to the public. He is doing a term of one year right now.

BY MR. JOLLEFFE:

Q I think there is a little confusion on that point. You quoted widely as having said in your previous evidence that most of your trouble is with unregistered operators?

A Yes.

Q I understood you to mean -- I may have been wrong -- that most of the prosecutions are of the unregistered operators?

A Yes, that is what I just said to Mr. Janes.

Q That is, most of the police court cases?

A Yes.

Q Where a man is convicted and fined for the offence of operating without a license or some other offence under the Securities Act, or possibly under the Criminal Code?

A The most direct charge is trading without registration.

Q That is all right, so far as the enforcement of the Securities Act is concerned, but when we speak of "trouble", -- for example, complaints not only from the United States, but from other provinces, about your mailings and telephone calls, you would not say that most of your trouble there is with unregistered operators?

A No. I corrected that, and said, "Most of our prosecutions".

Q That is where most of your trouble is?

A Being unregistered, he has no license to

be taken away.

One of Mr. Houck's questions was whether we knew of any unregistered salesmen operating in licensed houses. We made a raid last night and found one.

Q On the telephone?

A We did not find him right on the telephone, but our investigator said, "Who is that man?" We were pretty sure who we were after, and the office manager said, "That man is so-and-so." giving the name of a registered salesman. The investigator said, "We will find out", but he did not catch up to the fellow until he was trying to put his billfold and everything with his identification on, down the toilet, and our investigator recovered it, and found he was the man we were looking for.

This morning we cancelled the registration of the broker who had employed this man, and cancelled the registration of the salesman who had given us the small lead as to the identity of this man.

Now, the only recourse we have against this man is to prosecute him, but he probably is across the border at Niagara Falls by now.

I got the Hon. Attorney-General (Mr. Porter)

right here this morning to approve the charge.

Q I understand what you say about the prosecution and, of course, there have been a number in the police court, but your problem of administration insofar as you receive complaints from within Ontario, and from the Western provinces and from the United States about mailings, and about the flamboyant literature and telephone calls; is it not a fact that most of that trouble is in connection with registered broker-dealers?

A Definitely. I think I made myself clear on that point.

Q I think you did, too, but I think it was misunderstood.

A I think we are perhaps talking at a little cross-purposes. The majority of prosecutions are against unregistered persons, but, as I have pointed out before, it is very serious, because these people, when breaking the basic law, break every other law, and I think their victims suffer a great deal more than victims of a mailing house.

If a person answers a mailing, and sends in a hundred dollars, he may not be suffering very much, but when these unregistered people get out, they try to sell the person for every cent he has got.

I am serious about that --

THE CHAIRMAN:

Q Is not your position this; when you are dealing with an unregistered person selling securities, you have a situation where you have a definite offence under the Act, and you can prosecute?

A Yes.

MR. JOLLIFFE: He is an outlaw.

BY THE CHAIRMAN:

Q The law covers him?

A Yes.

Q But when you are dealing with a registered broker, your position is a little different? You can cancel his registration, even though he may not have committed any statutory offence, but if within the view of the Securities Commission, he is guilty of what you consider to be high-pressure salesmanship --

A Yes.

Q And one of the factors you look at in deciding whether there is high-pressure salesmanship, is the factor of what you call "over-loading"?

A Yes.

Q Amongst other factors?

A Yes.

Q And you have wide discretion, as to whether you can cancel his license or not?

A Yes.

Q You may not be able to lay any charge against the man, because you cannot prove any offence under the Statutes or under the Code, but, on the other hand, you have the power to cancel his license for doing something which, in the view of the Commission, is high-pressure salesmanship?

A That is correct.

Q And, of course, he has the right to appeal if he thinks he has been unjustly treated?

A Yes.

Q And if he goes out and sells after his license is cancelled, you can prosecute him for selling without a license?

A Yes.

Q That is really the machinery you have at your disposal?

A Yes.

BY MR. HOUCK:

Q Have you any idea of how many unregistered

salesmen are operating in the province?

A I doubt if there are very many. I think there is a surplus of salesmen now.

BY THE CHAIRMAN:

Q. You mean registered salesmen?

A Yes, salesmen who are registered. I think they might find some difficulty in getting employment right now.

We think this chap we caught up with last night came across the border with a companion, so we are on the look-out for his companion right now.

BY MR. JOLLIFFE:

Q Mr. Lennox, of the complaints you get with respect to registered people, that is, broker-dealers, salesmen and securities issuers, would you say that most of the complaints come from within Ontario or outside Ontario?

A Oh, the vast majority from outside.

Q In fact, you are not getting very many from within Ontario now?

A No.

Q So the situation is very different from what

it was twelve or fifteen years ago when there were a lot of complaints about what went on inside the province?

A Yes.

Q That is, in the early days of the Act?

A Yes, and at the time when the salesmen went out and called at the homes.

Q At that time the vast majority of complaints were in respect to alleged offences right here at home?

A Yes.

Q Now it is reversed?

A Yes.

Q Now, can you tell me this? Roughly speaking, are most of the complaints you receive from outside of Ontario -- do they mostly relate to the activities of broker-dealers or salesmen or securities issuers?

A Oh, broker-dealers and salesmen. But again I want to remind you that we do not get a great number of complaints. We get complaints from a person who has purchased. Consider, for instance, the western provinces; most of the complaints are purely directed to the fact that one person in their province

was solicited by an Ontario dealer, without even having purchased.

Q They complain about getting long distance calls from Toronto?

A Yes.

Q Of course, that is contrary to their law, is it not?

A It is contrary to their law.

Q As I understand the Alberta Act, it is contrary to their law for a resident of Alberta to be solicited by the salesman who is not registered in Alberta.

A That is my understanding of it, too.

Q Just as it would be contrary to our Act, for a Toronto resident to be solicited by a salesman in, for instance, Edmonton?

A I think that turns on the question of trading.

Q I think you explained an opinion last time -- and it is an opinion with which I agree -- that that would be an offence under our Act?

A I am inclined to think it would.

BY MR. HOUCK:

Q What do you do when you receive a complaint? What procedure do you follow?

A We immediately put an investigator on it, and do everything we think necessary to get the facts.

 The majority of the complaints coming from the Western provinces are just from the administrators of the Western provinces, saying somebody has solicited somebody in their province. We have some extraordinary complaints.

 One complaint came from outside the province, and the chap said he had never sent in a request to this province for information, so that he would be a qualified client of this broker's house.

 We immediately went down to the broker's office and asked him to produce the card which entitled him to telephone that man in the western province, and the broker pulled out a card with the man's name and address rubber-stamped on it.

 The immediate reaction was that it was a forgery. I have a very low opinion of the fringe operators, but I do not think any of them are so foolish that they will make out a rubber stamp to qualify a so-called client.

 I wrote to the chap and suggested that he investigate his own office staff, rather than investigating the broker, because I thought it was perfectly

obvious that the man had somebody in his office pick up a rubber stamp, and stamp the card, as a joke.

It is the same way that they send in the names of chaps on our staff.

Another problem that arose was that somebody sent in the name of the Deputy Attorney-General. I do not think you need to have much of a sense of humour to get the answer to that one.

However, these things all take time. To show you what we are up against. In a very recent case, a broker in a Western province sent in one of these so-called requests to a local broker, and then he sent in a complaint, and he denied that he had sent in the card, but he finally had to own up and confess that he had sent in the card. That means a lot of trouble, because, regardless of what any of the provinces may say, we do our utmost to preserve friendly relationships between ourselves and the provinces.

Q You say "regardless of what any of the provinces may say". I quite appreciate you would get, in the course of your work, a good many unfounded complaints, but at the same time, you have opposite members in Victoria, British Columbia, Regina or Winnipeg, who are men like yourself charged~~y~~ with the duty of enforcing

security legislation, and we would not expect them to go off half-cocked; we would not expect them to make statements or charges, unless they have given them some consideration.

I have not got the particulars, but have there not been some complaints -- consider British Columbia, for example. Who is their Commissioner?

A Mr. Stewart Smith.

Q Has he not complained about trouble in Ontario?

A No, not since 1949. As a matter of fact, I got a letter from Stewart Smith saying he would pay his own way down here to give me aid if necessary. He comes from British Columbia.

Q What was his complaint in 1949?

A He did not have any complaint in 1949 that I know of, except he got up at the Convention at Richmond Virginia, and said that uniformity of legislation, and so forth, and so on, was impossible in Canada since Ontario switched to a new form of legislation.

I can give you his whole address, if you want it.

Q That is all right. I just want to get at their position.

BY THE CHAIRMAN:

Q He did not complain about any specific thing?

A No.

Q It was the question of uniformity of legislation with which he was concerned at that time?

A Yes. I think he is probably the best friend I have in the securities business right now.

MR. JOLLIFFE: Well, you have to have some friends.

THE WITNESS: No doubt about that, Mr. Jolliffe.

BY MR. JOLLIFFE:

Q Now, moving further east, what about Alberta?

A Well, Mr. Blackstock, of Alberta, is a very strong administrator, and he complains about using literature, and complains about people telephoning to his province. As a matter of fact, he supplies information to outside jurisdictions about Ontario.

Q About **oil** properties promoted in Toronto?

A I understand he sent the information down to Ottawa, in one of those postal probes, that the property

was hopeless, and before the day was over, they got word they brought in a wonderful gas well on this property.

In all fairness to Mr. Blackstock; he is a friend of mine; he has been at my house, and I hope to see him within the next three weeks, but I think Mr. Blackstock thinks he knows what is under the ground. I have nobody on our staff who does.

Q What is under the ground is one thing, and what goes through the mails is another?

A Yes.

Q Did he make a statement of any kind in recent months about Ontario Securities?

A He made a statement about a year and a half ago, or two years ago, which was published in one of the local papers. I think I have a copy of that.

Q I have not been able to find it, and if it is convenient, I would like to see it.

A I will certainly find that for you.

Q I may say, Mr. Lennox, that I am very much interested in the position of the other provinces. I think the Americans have received so much publicity that we have lost sight of the fact that some of the other provinces have views about this, too. Some of

them may think our system is a good one, and some may not. I think that must be taken into account.

What about Saskatchewan?

A The chap in Saskatchewan has not done very much. I do not think they qualify many issues out there. I have never had any trouble with him in any way, shape or form, until on the 17th of March he made a statement to the Press --

Q This year?

A Yes.

BY MR. DOWNER:

Q Was he an Irishman?

BY MR. JOLLIFFE:

Q What was the nature of his statement on St. Patrick's Day?

A He talked about worthless Ontario Securities, and he said that a widow in Saskatchewan had lost seven thousand dollars through buying worthless stock.

I telegraphed him, and said to send us the particulars, because we could not identify the matter in any way, shape or form, but I got no reply to my wire.

Then I wrote to him and I got word back from

somebody in his office that he was in the hospital.

Later on he wrote to me stating the widow had since died, and her immediate family would not furnish any details whatsoever about the transaction. I might as well be perfectly candid; I am satisfied that the whole thing is a pure myth.

Q His statement did not rest on one case, did it?

A When he stirred the people of Saskatchewan up, I got a complaint direct from a man who had laid a complaint against a broker-dealer who lost his registration in 1946. It was of pretty old vintage.

Then, when Mr. Young of Saskatchewan -- the Commissioner out there -- wrote me and said that although he could not furnish me with details of that seven thousand dollar transaction, he could give me the details of the other complaint, that was the one I had already received, so it looked to me as if there were not a great many complaints. He referred to the very same complaint I had received. It was an ancient one, and I can scarcely recall of any person in Saskatchewan in recent years buying any appreciable amount of Ontario securities, in any way, shape or form.

Q What about Manitoba?

A The Registrar out there is very active.

Q What is his name?

A Lawford. I have never met Mr. Lawford. I am looking forward to meeting him at the meeting in September.

Q Has he made any statements?

A No, I do not think so.

Q Has he communicated any complaints to you?

A Yes. He is the one who wrote about the Deputy Attorney-General. He has sent in complaints very much the same as Mr. Blackstock, about solicitations.

Q He takes objection to solicitations from Ontario?

A Yes.

Q Does he take the position that you should stop it?

A Yes.

Q That is Mr. Blackstock's position?

A Yes.

Q And Mr. Young's position?

A Well, possibly. I hardly heard from Mr. Young at all until his recent statement.

Q Perhaps you can furnish us with a copy of that statement?

A I think I have it.

Q Now, there is also the Province of Quebec.

A I have the most friendly relationships with the Province of Quebec. We have a great deal of success with the Province of Quebec, because they are so polite in saying that we should stop soliciting in their province, and it is very easy to convince the dealers to stop soliciting.

Q They are very polite about it?

A Yes, and very nice.

Q But they do ask you to stop people from soliciting their residents?

A Yes.

Q Incidentally, Mr. Lennox, have you heard -- as I have -- that some of your registrants or ex-registrants have been moving to Montreal?

A I do not know that I have heard as you have, Mr. Jolliffe. I have heard it.

Q You have heard it?

A Yes, but it is not quite as extensive as the rumour goes.

Q I am not saying it is extensive.

A I know an investment counsel here who is in good standing. He has gone down to Quebec, and is in

the brokerage business.

I know of an ex-registrant who has moved to Quebec. I have not the slightest idea what he is doing. He moved to Montreal.

I know one or two who have been refused registration in Ontario who have gone to Quebec and applied for registration, and when Mr. Leboeuf suggested they had been in difficulty in their own province, they said it was all a mistake, and could be explained.

I do not think any of them will get registration down there, who are in bad odour here.

Q These removals were quite recent?

A Yes. Quite a few of them have gone west, too.

MR. HOUCK: That was Horace Greeley's advice to young men, to go west.

BY MR. JOLLIFFE:

Q Have you heard that one broker-dealer was opening a branch office in Montreal -- very recently?

A Yes.

Q I think you have heard about all the ones about which I have heard.

A I think probably.

Q Now, New Brunswick; they have telephones in New Brunswick. Have you had any complaints from down there.

A There might have been possibly three. Our people do not try to sell down there very much.

Q Nova Scotia?

A Neither New Brunswick nor Nova Scotia.

Q Prince Edward Island?

A No. I do not know that they have a Securities Commission down there. They may have.

Q I know it has a population about the same as my constituency, so I would not expect they would be very numerous.

THE CHAIRMAN: They do not vote the same way, though.

BY MR. JOLLIFFE:

Q. Nothing from Newfoundland?

A The complaints from east of Quebec are virtually nil.

MR. JOLLIFFE: I think it would be interesting if you could let us have some statements as were made public by your opposite numbers. I would like to see

them.

One other question in this same connection,
if you please.

BY MR. JOLLIFFE:

Q I think it was in your very first bulletin you stated something to this effect; that the Commission maintains a close liaison with the Securities and Exchange Commission in Washington and with the other provinces.

I have it here:

"Close liaison is maintained between this Commission and the other provincial securities administrations, and also the Royal Canadian Mounted Police, the Ontario Provincial Police, the Toronto Police Department, the Federal Bureau of Investigation, the Securities and Exchange Commission, and the offices of State Securities Administration.

There is a continual exchange of information regarding the results of prosecutions and the criminal records of persons dealing in securities. Information regarding their activities is regularly published in the

Securities and Exchange Commission's bulletin.

At present our filing room has some twenty thousand files, which includes some fourteen thousand files on persons with their records and histories in the securities business."

That statement, I take it, is still correct?

A That is correct, although the actual exchange of letters is not as extended now, because the bulletins serve this purpose.

I have just mentioned to you some of our people going out west. When they go out and apply for registration, my counterpart writes in and gets the information, if he has not already got it, and there is an exchange of letters.

I remember one chap who recently went out to Alberta. Mr. Blackstock wrote to me and I gave him the information, and he did not get his registration there, and he went out to British Columbia, and I got an inquiry from British Columbia. There is a complete exchange of information there.

Q Would you say that all your information is accessible to other commissioners?

A Definitely.

Q You would not hold back any?

A No.

Q I think in your previous evidence, you suggested that you would give us a memorandum of co-operation with the S.E.C., including those six complaints you mentioned you have received. Is that available?

A I have them here. Here (indicating) is a complaint that I dealt with personally, with Mr. Callahan, not so much by correspondence, but when Mr. Callahan was here in Toronto. The broker did make restitution, or rather, he reversed the transaction, but refused to admit any irregularity, and he said, "If the man is as hard up as he says he is, I do not want his money", and he reversed the transaction.

This is one of the six complaints I have talked about, and there is an affidavit supporting it.

Q This is an affidavit supplied to you by the S.E.C.?

A Yes.

BY THE CHAIRMAN:

Q Is this the same one, or a different one?

A This is one of the six.

Q One of the six?

A Yes.

Q Is it the same one you mentioned a moment ago?

A Yes, it is the same one. Mr. Callahan and myself pretty well worked it out. I will read part of it:

"That it was represented an investment in Concord Mines Limited and Maidstone Oils Limited were no longer a speculation, but an investment, because of the development work that had taken place in the said property; that I was certain to make money, and that I took no chance of loss in the purchase of Concord and Maidstone shares; that it was furthermore represented to me I was purchasing Concord Mines Limited shares and Maidstone Oils Limited shares below the market price, as the price which I paid for the said shares was only available to customers of Perrin and Company, and when Concord and Maidstone shares were made available to the public, they would be sold

at much higher prices.

That I was assured both Concord Mines Limited and Maidstone Oils Limited were making money, and was told of the great activities concerning development work taking place on their properties."

MR. JOLLIFFE: I do not know that we need to take up time getting the details of these complaints. I understood Mr. Lennox to mean, when he said he had a memorandum of the co-operation with the S.E.C., that he could give us the history of the co-operation.

THE WITNESS: No, what I referred to at that time was that I had a memorandum showing our co-operation with the S.E.C. in certain specific cases, and their lack of co-operation. I would just as soon not refer to it at this point. I do not think it will serve any good purpose.

BY MR. JOLLIFFE:

Q I think we should get the facts. If the S.E.C. has failed to co-operate with you, we want to know about it.

A I do not think I said quite so broadly that they had failed, but I gave some specific instances

of where they did not seem to be very over-anxious.

I have already given you the Rosseau case.

Here (indicating) is a complaint from Peter R. Previtt, represented by A. E. Smith, who stated the S.L.C. had furnished Previtt with a list of questions. Smith attended on the 6th of March, 1950, with an affidavit from the company. After a lengthy interview with the senior solicitor, he was requested to forward further affidavits, to which he agreed. The affidavit was not produced, and the file was closed after a lapse of two months.

I do not blame the S.L.C. for that, but I think that this fellow was after his money, and that was all he was after, but when he saw we were not proceeding on that basis, he just dropped it. I have all the files on these.

Here (indicating) is another one, in re Krause. The letter of complaint was received June 30th, 1950. He based his complaint solely on the fact that an employee of the S.L.C. had told him it was fraudulent. However, a fraud order was not issued.

On July 5th, he was sent a letter requesting further information and documentary evidence.

On August 1st we received a reply. He had evidently consulted with the S.L.C. in the meantime,

and he stated the material we requested was in the possession of the S.E.C.

A further letter was sent to Krause on August 14th. On October 23rd, a further letter; no reply. November 28th, a further letter; no reply.

The case was marked closed on the 28th of December, 1950.

BY THE CHAIRMAN:

Q That is a letter, from the S.E.C., to this party?

A No, a letter from us.

There was another case of trying to get restitution, but we could not investigate without the material, and according to what he said, the material was in the hands of the S.E.C.

Q Now, in that case, apparently the complaint came to you directly from Mr. Krause?

A Yes, in a letter.

Q And when you asked him for information, he said he had lodged it with the S.E.C.?

A Yes.

Q Did the S.E.C. ever pass on that information to you?

A No. The only connection the S.E.C. had with

that complaint was that the complainant referred to the S.L.C. He said he had been told by the S.L.C. that the issue was fraudulent.

We have dealt with about 52 cease and desist orders, and fraud orders, and one thing and another. Many of those issues were such that we were not in a position to show they were fraudulent until there was some opportunity of financing the treasury and proving by that means.

Here is another, the Borderminster Exploration. I have not the file here, but I have a note on it.

On April 3rd, 1950, we wrote to the S.L.C. requesting a return of the documentary evidence which we forwarded on November 3rd, 1949, but we received no reply.

On May 4th, we made a further request. On May 11th, 1950, we received a reply stating they were still using the material.

On July 12th, 1950, the documents were returned.

I am not using that as evidence against the S.L.C., because I hope to continue friendly relations with them, but these people who are levelling criticism

at the Ontario Securities Commission -- I think that is the answer to that. We are doing our very best, and we do not like to keep pestering them to return these documents, but we are responsible for the evidence on file in this commission, and we have to keep after it until we get it.

I have been put on the defence about things about which there are no positive charges against us. I do not know what they are referring to many times, relative to matters filed with the S.L.C.

Q I would gather from the letter read this morning that the only solution to the problem, as they see it, is a new extradition treaty, and they do not suggest any additional form of co-operation with the Ontario Securities Commission at all. It is the extradition treaty, and only the extradition treaty, with which they seem to be concerned at the present time. That is the substance of it, as it occurs to me from that lengthy letter.

MR. JAMES: Did they not state there ~~was~~ very excellent co-operation?

THE CHAIRMAN: I think at one point they did. I think they went out of their way to recognize there were some difficulties; some legal and some.

constitutional, and if there were any fraudulent dealings, the blame was not on one side nor the other, but the only way, in the final analysis, to deal with the problem, was to have some extended extradition treaty, which, of course, is a matter with which the Securities Commission has really no direct concern.

BY MR. DOINER:

Q In connection with these men who are ruled off because of bad dealings; do you make any effort to see that they make restitution to the victims?

A No. There was a time in the history of the Ontario Securities Commission, when restitution was the order of the day, but restitution was exacted on the ground that the man still retained his registration. That has been very harmful, because these broker-dealers down on Bay Street would be only too happy to save their registration on the ground of re-payment, but it is not good administration in my opinion, and it was not good administration in Mr. McTague's opinion.

MR. JOLLIFFE: Almost like a license fee.

THE WITNESS: And a very small license fee at that.

THE CHAIRMAN: It is similar, in a way, to compounding a felony, although it is not a felony, because the whole theory of it was, "If you pay back to Mr. A what you gouged from him, we will let you carry on with your license, and perhaps gouge somebody else."

BY MR. DOHER:

Q Could a victim not seek restitution through the courts?

A If the public were more alert, and when they see there is fraud or misrepresentation, if they would sue on the ground that the contract is voidable or void, it would be a very healthy and happy solution. But, as I have said, a great section of the public is not versed in securities matters, and stocks and bonds, and they think the Commission is there to pick up the torch for them, and they do not have to do anything. Even some lawyers seem to think that the Commission is a sort of collection agency. It is bad business.

Q In the case you settled with Mr. Callahan, restitution was made on a voluntary basis?

A It was very definitely understood that the Commission was not stooping to restitution, but the

broker-dealer said, "If that fellow lives in the United States, and is as hard up as all that, I will give him his money back. I do not want to take money from a man who cannot afford to buy."

This particular dealer who made the so-called restitution is a comparatively good chap. In dealing with broker-dealers, I always say "comparatively".

BY MR. GRUMMETT:

Q Mr. Lennox, a while ago you said if the public were more aware of their rights in going after these broker-dealers, and in suing them for the return of the money and the voiding of the contract, they might get some rectification of the harm done. Do you not think that it is more a case of the public being fully aware that no matter how much they sue or what judgment they get, they cannot collect on the judgment?

A No, I think they can collect on a great number of judgments. A lot of these dealers have substantial properties. The gentleman with whom we spoke this morning is supposed to have a big estate outside of Toronto.

Q Were there not a great number of those who

deal outside the law?

A They have nothing but a desk and a telephone in their office. That is all they possess. What is the good of suing a man without assets.

MR. DONNER: His wife probably has them all.

MR. GRUMMETT: Yes, or it is in somebody else's name.

THE WITNESS: They have working capital, and a great many of them are wealthy individuals.

MR. JOLLIFFE: Some of them are "front men"; they are not likely to have many tangible assets.

MR. GRUMMETT: Just as we find in the legal practice, that many of them cover up their assets, so that no one can get at them.

THE WITNESS: Of course, there is a reason for that in **other** lines of business. I do not think that is peculiar to the brokerage business.

THE CHAIRMAN: It is so with anybody you happen to deal with, financially.

BY MR. JOLLIFFE:

Q You have referred to six complaints from

the S.E.C.; did any of those complaints lead to a suspension or cancellation?

A The first one, Rosseau, was himself an unregistered person.

 The next one, I have not looked over these very carefully lately, but I think the next one is absolutely unfounded, just an attempt to obtain restitution.

 Another one is included as a complaint, to be on the safe side. I do not know whether it was really a complaint or not. We simply got an enquiry from the S.E.C. about certain issues, and we investigated and found that the issue was not being sold in Ontario at all, and we found that some residents of the United States, who were also officers and directors of this issuing company, were obtaining orders in the United States and sending them up here to brokerage houses to be filled.

 I think I mentioned that indirectly before, that we gave the S.E.C. a full report on it, and as far as I can ascertain they did not take any action. They did not prosecute the individuals involved, but they required them to qualify this issue with the S.E.C. That was in July, 1950, and in June of this

year we examined the President of this company, and he said they still had not obtained qualification. That is hardly a complaint, but I included it in the number, to be on the safe side.

Another one I have already referred to, where the man did not send us the documentary evidence as requested.

BY MR. JOLLIFFE:

Q . Then none of them led to the suspension or cancellation by your Commission?

A No.

Q Can you recall any cases at all in which complaints from other provinces have led to suspensions or cancellations by you?

A No. They might have been considered, but I cannot, off-hand, recall very many complaints from any province where anybody had purchased anything. The complaints were mostly of local dealers trying to sell something.

Q I would deduce from what you say that all these cases in which you have acted by way of suspension or cancellation in the last two or three years, many of which related to literature, and at least one

to a telephone call, were cases, the evidence of which, came to you from within Ontario?

A No. A great number of those cases were absolutely related to the question of trying to control solicitation outside of Ontario.

Q I realize that.

A Where the Commission acted purely on its own motion.

In some cases we made a spot check, and if that spot check disclosed a situation which warranted further action, we took out an investigation order, if necessary, and went **right** through.

The majority of our actions is done solely on our own motion.

Q That impressed me, looking at the decision. I agree with you it does appear to bear that out, but I would think in practically all these cases, the initiative was not with the Commission, although there might be complaints to start the ball rolling, although in many of these the offences obviously related to the international situation, that is, the mailing and the telephone calls.

A That is one of our objectives, to control those mailings. We take action ourselves.

This might be an opportune time to just simply point out that publicity which has been adverse has assisted the Commission materially in the last few months, because we have complaints and correspondence from intelligent members of the public who are trying to direct the Commission in the right direction -- I mean, to help them.

Q How much assistance have you had from the B.D.A. in their taking disciplinary action?

A Well, as I said at first, for the first stretch -- if I may use that term -- it was not assistance, it was obstruction, but the matter is improving now.

Q Are you getting any assistance now? For instance, these cases you have acted on this year -- 1951; there have been quite a few suspensions and cancellations. I do not say that is necessarily a good thing, but to judge by the reasons given in your decisions, they were certainly called for. In any of those cases, did you get any assistance at all from the B.D.A.?

A I cannot say we got very much **direct** assistance, Mr. Jolliffe.

Q Although it is supposed to be a disciplinary

body, of the province, if it can be so termed.

A It is supposed to be one of them.

Q It is a self-governing one?

A The Stock Exchange is another, and the I.D.A. is another.

Q Oh, yes, but I am talking about the broker-dealers?

A Yes.

THE CHAIRMAN: Shall we adjourn for five minutes?

MR. JOLLIFFE: Yes, that would be a good idea.

---Whereupon a short recess was had.

---Upon resuming.

THE CHAIRMAN: Gentlemen, we will resume with Mr. Lennox.

BY MR. JAMES:

Q Mr. Lennox, where you cancel a license of one of your licensed operators; that is the only punishment they get?

A No, we prosecute them in proper cases.

Q Then I suggest to you, why not put each of these sellers under bond?

A That will be required. Every broker-dealer will have to post a bond as of the first of October.

BY I.R.DONNER:

Q How much?

A Ten thousand dollars in the big centres.

Q I am thinking again of restitution, particularly to the widows and orphans swindled out of everything they have.

How about making the bond big enough so that if a man is charged with unfair practices, the bond will be forfeited to you, and be there for restitution, even if it was only a small amount.

A The bond we did have would be available for meeting a judgment, if the judgment were covered, but we found out there were very few judgments registered, to be satisfied with a bond, and that the bond was more or less of a detriment, because the person was required to put up collateral in the amount of the bond, so it was detrimental to the little fellow who was short of working capital, and of very little consequence at all to a person backed by some undisclosed

interests.

BY THE CHAIRMAN:

Q These new bonds, you say, are different?

A Yes.

Q Those which will come into effect in the near future; they are a different type of bond?

A They are a different type of bond. It is amazing to me that a person cannot obtain a bond. They are of a very simple type, and since we adjourned, one broker-dealer has surrendered his registration, and while I cannot prove it, I am pretty sure it is because he could not get a bond.

BY MR. HOUCK:

Q I think you told us the amount of the bond they had to put up will vary with the location in which they operate?

A Ten thousand dollars in centres like Toronto, Ottawa, London, Hamilton and Windsor, and it is graded down.

BY THE CHAIRMAN:

Q Would the proceeds of that bond be avail-

able for restitution, if there was a judgment obtained against a broker-dealer?

A I do not think so.

MR. JAMES: Well, what becomes of the bond?

MR. DONER: Yes, what becomes of the bond?

THE WITNESS: The bond is against absolute theft. Supposing a salesman went out to a place, and took a thousand dollars for the purchase of securities, and did not deliver those securities, but pocketed the one thousand dollars. The bond would be to cover that default.

BY MR. DONER:

Q That would be restitution on a minor scale?

A Yes.

BY THE CHAIRMAN:

Q Are these bonds (indicating) all the same?

A There are two kinds of bonds.

BY MR. JAMES:

Q If you proved fraud against a man, could

not the bond be forfeited to pay for the fraud? If you approved fraud and cancelled the license, why should not the bond be forfeited then?

A I have not studied it very carefully. I ordered them before I went away on my holidays, and there are three lawyers here on the Committee, and they can probably go into that much closer.

BY MR. GRUMMETT:

Q Mr. Lennox, do you not think if you had a bond which covers the cases you cited, such as obtaining either property or other securities by theft, if it also covered fraud in dealing with securities, would it not be very beneficial in stopping the operations of some of these operators?

A I doubt if you can get any bonding company to indemnify against fraud, apart from fraud being proven in a court of competent jurisdiction. The people --

Q If they had a bond, it would encourage a lot of people to make the attempt, because at the present time, they think they will not get anything, anyway.

A We had a bond for twenty-two years, and I

cannot remember one of them where the proceeds were handed over to cover fraud. I can remember where the proceeds have been handed to a trustee in bankruptcy, or to reimburse the government for the cost of prosecuting -- court costs, but I cannot recall one in my time here, where it was handed over to satisfy a judgment based on fraud.

We search executions, of course, and if there is an execution creditor, he gets it, but the execution is not necessarily related to any stock transaction.

BY MR. GRUMMETT:

Q Then again, would not the requirement that the bond had to be deposited, mean that the stock-broker had to have a pretty good standing before he could secure that bond? Does it not mean that the bonding company would look into his previous activities, and he would have difficulty in getting a bond, unless he was a pretty "square-shooter"?

A That is the purpose of the bond now.

Q Then a part from this question of dealing with securities, if we had a bond which would stop them from carrying on fraudulent operations, it would fill a much greater need than that.



THE CHAIRMAN: This bond (indicating) is called "Broker's Blanket Bond -- Standard Form No.14", and in consideration of the premium, the United States Fidelity and Guaranty Company, a corporation of the State of Maryland, with its home office in the city of Baltimore, undertakes and agrees to indemnify and hold harmless -- and then appears the name of the party -- who would the party be? The broker-dealer, or the Securities Commission, or whom?

A The party.

Q Who is the "party"?

A I have a copy here for each one of the Committee. I got these bond samples, so the Committee would have a chance to study them.

EXHIBIT NO.129: Broker's Blanket Bond, Standard No.14, as produced and identified by the witness Lennox.

EXHIBIT NO.130: Short Form of Fidelity Bond as produced and identified by the witness Lennox.

THE CHAIRMAN: This is something we perhaps should question the broker-dealers on.

THE WITNESS: That is what I was going to suggest.

BY THE CHAIRMAN:

Q That is the form of bond they are proposing?

A Yes.

THE CHAIRMAN: Perhaps we can leave this until the broker-dealers come forward.

MR. JOLLIFFE: Yes, but the only thing is this, this is what they have decided upon, subject to the approval of the Commission.

MR. GRUMMETT: Does it meet with the approval of Mr. Lennox? Does it go far enough?

THE CHAIRMAN: Apparently there are two separate bonds.

THE WITNESS: No, they are optional.

BY THE CHAIRMAN:

Q They can take out one or the other?

A Yes.

BY MR. JOLLIFFE:

Q Well, is that the case -- one or the other?

A Yes.

Q Because the one I looked at first relates only to employees. I would take it to be a bond with respect to the operation of salesmen, and it would appear to protect the broker-dealers, and not anybody else.

THE CHAIRMAN: That same thing would apply to this (indicating), would it not? The insured would be the broker-dealer.

THE WITNESS: The broker-dealer is insured.

MR. JAMES: I think the main thing we have to discuss is whether the bond will protect the public.

MR. DONER: So that there will be a reimbursement for one who is swindled.

MR. VILLENEUVE: If the stock is not legitimate, I think we can do something to protect the public.

MR. JAMES: Yes, we could have a bond prepared which would cover what we want done.

THE CHAIRMAN: This is an insurance against the loss sustained by the insured.

MR. GRUMMETT: Through his employees?

THE CHAIRMAN: That is the way I interpret it. It is not a bond for the protection of the public, or provides for the forfeiture of the amount described in the bond, in the event of the default or wrongful act on the part of a broker-dealer himself.

MR. GRUMETT: I think this bond pre-supposes an honest broker-dealer, who might be unfortunate enough to have a dishonest salesman.

MR. VILLENEUVE: That is right. It is more or less protection for him.

MR. JOLLIFFE: It is entirely different from an administrative point, from the bond an administrator has to give to the Surrogate Court. That is a bond to protect the heirs of an estate.

MR. VILLENEUVE: That is what we should have here.

MR. DOWNER: This bond does not cover any loss, directly or indirectly, from fraud with or without the knowledge of the insured.

THE CHAIRMAN: The proceeds would go to the insured. The bond required by the Securities Commission, which Mr. Lennox mentioned, would be forfeited

to the Commission.

THE WITNESS: Forfeited to the Government.

BY MR. JAMES:

Q A bond forfeited to the Commission, would fill the bill?

A Only with this exception; I do not think it is possible to get any Surety Company to indemnify against fraud, short of fraud proven in a court of competent jurisdiction.

MR. JAMES: That is probably right, too.

THE WITNESS: And many people just do not go to the courts to prove it.

THE CHAIRMAN: The only advantage of that sort of bond, would be if they went to the court and got a judgment, there would be at least some money available to meet the judgment.

MR. DOWNER: That is what I have in mind.

MR. JOLLIFF: I can give you another analogy. The distributors licensed by the Milk Control Board have to be secured, and that bond is payable to the

Milk Control Board, and if the licensee fails to live up to any of the regulations or requirements of the Milk Control Board, the Milk Control Board is the judge.

It is true there was a case where the bonding company refused to pay it to the Milk Control Board, and the Board had to sue them, but they paid it eventually.

I think Mr. Lennox could help us if we could see the bond previously used. It should be on file.

BY MR. JOLLIFFE:

Q They are on file, are they not, Mr. Lennox? I refer to the bond that was in force before your regime.

A Yes, but most of them have been surrendered at this time.

BY THE CHAIRMAN:

Q You must have a form somewhere, we could see.

A Oh, yes.

MR. JAMES: We could have a form drawn up, stating what we want.

BY MR. JOLLIFFE:

Q You did have reason for thinking that the previous bonding system was unsatisfactory?

A It did not have the practical results we had hoped for. As I said before, it proved to be an obstacle to the small man who wanted every bit of available capital to get his hands on, and it meant nothing to the man who had unlimited finances.

BY MR. JAMES:

Q The bond would be subject to the payment of a premium?

A They would have to put up collateral. If they got a five thousand dollar bond, they have to put up five thousand dollars collateral.

BY THE CHAIRMAN:

Q Should a man be a broker-dealer, if he does not have that much?

A No, he should not, but it is his working capital.

MR. JAMES: Why does he deserve any sympathy from us?

THE CHAIRMAN: He is in a financial operation, dealing with the public.

MR. JAMES: We have to protect the public, whether it affects his working capital or not.

MR. JOLLIFFE: In the event of his insolvency, it would be there, I suppose.

MR. JAMES:

Q If he, in putting up a five thousand dollar bond, has to put up five thousand dollars collateral, why the security at all? Why not put up the security?

THE CHAIRMAN: They could file government bonds with the Commission.

THE WITNESS: Yes, with the Provincial Treasurer.

THE CHAIRMAN: How much working capital does a broker-dealer need to carry on?

MR. JOLLIFFE: It depends on how much credit he can get from his printer, I suppose.

MR. VILLENEUVE: I think the public should be protected.

MR. JAMES: Are we not much more interested in the public than the broker-dealers?

MR. DOWNER: I should think so. A great deal more.

MR. JAMES: I know I am.

MR. JOLLIFFE: I think it would be more fair to put some of these questions to the broker-dealers, rather than to Mr. Lennox.

MR. JAMES: He is in a better position to give us more information.

THE WITNESS: I am entirely in accord with everything that has been said, but as I have said, from practical experience it did not work out.

THE CHAIRMAN: That may be so. It may be that very few people take advantage of what might have been gained from that bond; there^{may}/have been reasons we do not know about. They may have thought they could not prove a case.

MR. DOWNER: If a broker-dealer was adjudged to be guilty of misrepresentation or fraud, and lost his license, that is the first step in the case --

at least I would think so.

THE CHAIRMAN: Under the old bond, if he lost his license, would the bond be forfeited -- just on the cancellation of the license?

THE WITNESS: There would be a waiting period of two years to see if there was any claim against that bond, and then the Commission would search executions and search bankruptcies, and also search its own records to see if there had been any bill of costs against the culprit, and if there were no claims, the crown would return the proceeds.

BY THE CHAIRMAN:

Q Of course, his license may have been cancelled for some weeks, which may not have given the customer any claim against him.

A The only claim would be a judgment.

Q I know, but to get a judgment you have to prove a case?

A Yes.

Q And you might cancel a license on grounds which did not give the customer any cause of action?

A Take the Halpenny case. I still say it was

cancelled on a proper basis, but I doubt very much if a person could succeed in a court of law on the facts discussed in that decision.

Q There are cases which might occur where there is a clear cause of action based on fraud or misrepresentation, and a bond should be very useful in a case of that kind?

A Yes.

BY MR. JAMES:

Q Why should he have to go to court? I think the Commission should be able to decide.

A I think we are, but the bonding company have to agree.

MR. JOLLIFF: They supplied these Milk Control Board Bonds, which pretty well left it up to the Milk Control Board to decide what the score is.

THE CHAIRMAN: On the other hand, if they could not get a bond, they can put up the security.

MR. JOLLIFF: We all know how difficult it is, Mr. Lennox, where certain individuals have gone into business of being a broker-dealer on a shoestring basis.

A Yes, they have.

Q You may be able to tell me, I have forgotten, what a seat on the Stock Exchange sells for?

A The last seat sold for thirty-five thousand dollars. They have gone over one hundred thousand dollars.

Q If you want to go into these financial activities, you cannot go into them as a broker on the Stock Exchange without substantial capital, because you need more than the price of the seat on the Exchange to start business?

A Oh, yes.

Q But some broker-dealers have started up with little or no visible means of support, except perhaps an undisclosed front.

A Some of them have started with five thousand dollars.

Q A broker on the Stock Exchange is a man of substance; he would not be there, if he was not.

A No.

BY THE CHAIRMAN:

Q Any person dealing with the public money in a fiduciary position, should have some financial

backing.

A Oh, yes.

MR. DOWLER: That is true, yes.

BY THE CHAIRMAN:

Q. If a man goes into the medical profession, he has to spend a great deal of money. It costs about twenty thousand dollars before a man sets up in medicine, by the time he buys his equipment, and books, and so forth.

A In almost every profession, it costs quite a bit before you become qualified to practice one way or the other.

MR. JAMES: If you are going to start as a farmer or a storekeeper, you have to have some money.

THE CHAIRMAN: If he has not the money to start as a broker-dealer, he can start as a salesman.

MR. JOLLIFFE: Most of the people Mr. Lennox has trouble with seem to have the means, although the source is uncertain.

THE WITNESS: If you do not know where the source is, it does not do you much good to get a

judgment.

MR. JAMES: If it was cash or government bonds,
you would have the security.

(Page 2577 follows)

BY THE CHAIRMAN:

Q. From your experience, there are very few actions abroad and a \$5,000 bond would go a long way?

A There are very few actions brought for the simple reason that people are not alert to their rights, and they will not run the risk of publicity.

When you gentlemen were speaking of this, I had my office do some work at noon, and I was looking over a file where we started an investigation, and when we were half-way through with it, the party who initiated it, said he did not want us to go any further.

THE CHAIRMAN: Did not want to admit that he was so foolish as to buy the stock?

BY MR. JAMES:

Q. If the Commission had authority to cancel that bond, they would not need to advertise it -- that they had the power to cancel the bond, and refund the loss.

A Well, supposing it was accepted, would it not put the Commission in the position of a judge, making an order, which would have^a full force and effect of a judgment of the court of competent jurisdiction. Supposing you get as far as that, and supposing it was just to compensate the party for irregular methods over-al.

of a broker, the Commission would be confronted with the problem as to how to distribute the funds available. It would be almost an impossible job.

BY THE CHAIRMAN:

Q. The Commission would be deluged with a great many claims which were not made on sound ground?

A Yes.

MR. GRUMMETT: Even at that, if you had a great number of claims, if you had a board, which you could add to your Commission, or sort of a special committee, to deal with these things, I think it would be of service to the public.

MR. JANES: I think so.

BY MR. JOLLIFFE:

Q. There is another alternative which would relieve the Commission of the responsibility of adjudging those claims, that is, that the registrant should deposit security with the Commission, to be forfeited to the Commission as a penalty, if it became necessary for the Commission to cancel his license. That seems pretty hard. But if some of these broker-dealers can spend \$40,000 or \$50,000 on mailings, it would be no hardship to them to deposit

\$5,000 with the Commission to be forfeited to the Commission, if the Commission cancelled his license.

MR. VILLENEUVE: It would not harm the honest dealers at all.

MR. JANES: One of those fellows jumped a \$50,000 bail.

THE WITNESS: Then the tendency would be to treat all broker-dealers alike, and judge them all by the ones who cause the trouble. There are a lot of mighty fine people in the brokerage business.

Since we adjourned, there is one who voluntarily surrendered his registration on account of ill health, and I have seen his health going down year by year, and I have no cause to doubt his word. They are not all rogues.

MR. JANES: Nobody suggested that.

THE WITNESS: And \$5,000 would mean an awful lot to those, if they had to post it with the Commission.

MR. JOLLIFFE: I suppose it would, in some cases.

MR. GRUMMETT: Is it not the duty of the Commission to sort out the wolves?

THE WITNESS: We have been trying awfully hard

to do that for three years.

MR. JANES: Whether it means a lot to a broker-dealer or not, we still have a responsibility to the public.

MR. DOWNER: Does it not mean more to the poor widows who have lost everything?

THE WITNESS: I am all in favor of that. I am answering Mr. Jolliffe's idea, that there might be \$5,000 or \$10,000, as the case may be, which would be forfeited to the Crown. That does not do the public any good.

MR. JOLLIFFE: No. I suggested that as an alternative.

THE WITNESS: I realize that. Suppose you have \$10,000 to distribute, and there are 600 shareholders, of varying amounts; it is setting up a court to distribute that \$10,000.

THE CHAIRMAN: It would be only those who have some special ground of complaint.

BY MR. JOLLIFFE:

Q. I do not want to terminate the discussion about the broker-dealers, but there is another matter

we seem to have missed, upon which I think Mr. Lennox can help us.

We have heard a great deal about the broker-dealers, salesmen and investment counsellors, and so on. Now I want to ask some questions about the securities issuers.

A security issuer is a company which desires to sell its own stock to the public?

A Yes.

Q And it sells stock to the public without a mark-up, but with a commission of not more than twenty-five percent.?

A That is right.

Q That is, the person who sells?

A Yes.

Q If you give a company a license, as a securities issuer, then any of the company's officers or directors can sell, can they not?

A Yes, but they must designate who is going to sell.

Q They must notify you who is going to sell?

A Yes.

Q And they may sell the stock of that company?

A Yes.

Q It does not give them a license or authority

to sell any other stock?

A No.

Q But there would be nothing to prevent them, according to the present practice, from sending out mailings on their account -- on account of the security issuer itself?

A Yes.

Q And the designated persons could make telephone calls?

A Yes.

Q What I am particularly interested in is this; what investigation do you make as to the responsibility or reliability of the persons who are designated to sell?

A We check them the same as we check broker-dealers' salesmen.

Q The same as if he was a broker-dealer?

A Yes.

Q But there is this difference; they do not have to get past the B.D.A.?

A No; they do not have to get past the B.D.A.

Q The responsibility would be yours?

A Yes.

Q And you would check in to the record, if you have any, of each designated officer?

A That is right.

Q Now, if any member of the public wants to know who is authorized to sell for a licensed security issuer, is that information accessible to the Commission?

A Yes.

Q It is not published in your bulletin.

A No, we do not give the names, that is right.
It may be a pretty good idea if we did.

Q And if someone wrote to you saying "Is Mr. So - and-So legally licensed to sell the stock of such-and-such a company, you would be able to reply to that question?

A Yes.

Q And you would reply?

A Yes.

Q How many security issuers are licensed at the present time -- approximately?

A I had the record down here before, but I did not bring it down today.

Q Just approximately.

A The security issuers run about 75 a year, Mr. Jolliffe.

Q And a license is just for the current year?

A Yes, but they can renew it, just the same. The filing of any issue is only for a year, and their license

is only for a year, but they can come in and renew it.

Q At the present time, there would be security issuers licensed this year which were renewed from last year?

A Yes.

Q What would be the total, in effect?

A About 75.

Q 75 in effect now?

A Yes. It runs along about 75. It varies between 55 and 85 -- in between there, it is fairly constant.

Q In each case, there would be more than one person designated to sell?

A Usually more than one, yes.

Q What is the average?

A I would say usually two, but they can employ salesmen too.

Q In that event, the salesmen would have to be licensed salesmen?

A Yes.

Q If there was an average of two officers licensed to sell, that means there are another 150 people who are not necessarily broker-dealers, unless licensed in any capacity, who can sell stock in Ontario?

A That is right.

Q Do you have much trouble with that group?

A We have quite a lot of trouble with security issuers. I think some of it is due to inexperience. We have to be very careful about the type of salesmen. They may be cast-offs. They are liable to get salesmen of a very low order because some salesmen who probably cannot readily get employment with a broker-dealers' house, or a member's house, looks for employment with the security issuers.

Q It is a little easier to get?

A Yes.

Q I see in the Denallan case, in the June, 1950, Bulletin, you said:

"Registration of a security issuer should not be used as a vehicle enabling individuals to trade in securities, who would not normally be granted a license".

That represents the policy of your Commission?

A Yes.

Q Do you have any security issuers registered at the present time whose designated selling officers have had their licenses previously suspended or canceled?

A There might be. If they are, they have appeared before the full Commission.

Q What I am getting at is this; apparently in the case, the gentleman in question did not "get by" -- that cannot go into the record -- but in any event, he did not "get by" with his application for registration,,and the security issuer was refused on the grounds that the gentleman who was president of the company was not a proper person to sell?

A Yes.

Q What I am interested to know is, has anybody else "got by" -- anybody else whose past record with the Commission involved the loss of his license as a broker-dealer or salesman?

A I cannot think of any, Mr. Jolliffe. If there are, and it was brought to my attention, they would never be granted registration to sell as a security issuer, unless they appeared before the full Commission.

Q So that as far as you are concerned, this cannot be used as a device for getting around --

A That is what we are trying to guard against.

Q Now, supposing a security issuer -- or, supposing a company applied for registration as a security issuer -- and designated the vice-president and secretary-treasurer as selling officers, but the president of the company happened to be not designated as a selling officer, and was somebody whose license as a broker-dealer you

cancelled, last February, let us say; what would you do then?

This is on the assumption that the vice-president and secretary-treasurer as selling officers, are perfectly good people with good records, but the president has a bad record.

A He might "get by" as long as he was not a selling officer.

Q Would it not be a fair supposition if, he is president of the company, and probably the promoter of the company, to think that the selling methods and policy and promotion would be directed by him, the man whom you have just deprived of a license?

A That is possible. If you tell me the case --

Q I am not quoting a particular case. I am putting to you a hypothetical case.

A ^{If} /A case like that came up, the registrar would bring it in to me, and we would discuss the whole matter. I think we would review such a case.

Q No, I do not know that it has come up, but so many subterfuges have been tried to get around your administration, that I would be surprised if this had not been tried also.

A It may have been tried, but it is hard enough to deal with actual cases --

THE CHAIRMAN: Without putting any ideas into anybody's head.

THE WITNESS: If you asked had it been done, I would say there is a remote possibility, but I would think it would be extremely remote.

Q BY MR. JOLLIFFE:

Q. In connection with the man we were discussing this morning; is he not an officer of any of the companies whose names appear on the top?

A No.

Q He is not an officer of any of them?

A No.

Q It must be wonderful to control a lot of companies without being an officer.

A The Commission cannot look on the doors of the offices. If he has the effrontery to put his name --

THE CHAIRMAN: Mr. Jolliffe knows a number of lawyers' offices which have on their doors a list of companies for whom they act, perhaps even as secretaries of the company.

MR. JOLLIFFE: Yes, but this man's livelihood does not come out of thin air, and we still have not got to the bottom of the question as to why this man should play a most important, leading and active role in the

promotions and yet not be licensed, nor be an officer of any of the companies?

They certainly do not do it for nothing, nor for their health.

A No, one of those issues is currently selling to the public now. The thing goes back for years and years.

BY THE CHAIRMAN:

Q. Would you say that situation is less intensive than it was, or can you tell?

A I think it is less extensive. Take Fog Tantalum it is not an active issue. I do not believe that Petromine is. I understand it is making an offering, to its own shareholders, but that does not require registration. That is an exemption under the Act.

That leaves us with Indigo. I have no idea whether the gentleman^{is} living on credit or what he is living on right now.

I know when I went down to Ottawa, I thought I would sneak up to my room without seeing any person from Toronto, and I heard a voice over my shoulder saying "Have you a room for me yet?", and it was this gentleman. I think Mr. Abbott is interested in him at the present time.

BY MR. GRUMMETT:

Q. What did he mean? Was he talking to you?

A He was talking to the clerk of the hotel.

Q I thought he was talking to you.

A No, I was spared that.

BY MR. JOLLIFFE:

Q. In your previous evidence, you told us about this peculiar system of the middlemen --

A The taxation companies, yes.

Q Yes, and certain individuals who take the original option, and then give sub-options.

A Yes.

Q That is a practice which you have restrained to some extent?

A Definitely.

Q You reduced the mark-up?

A Yes.

Q Has that device been used to enable unlicensed people to make a great deal of money and retain control of promotions? That is, the device of the middlemen? One who does not sell to the public, but has a right to take down stock from the Treasury.

A There is no question but what persons are driving around in Cadillacs from their wealth, which flows from this very source, because if you incorporate a three million share company, and you get an

option on those shares, and then deal with a broker on a sub-option at ten cents -- which I have found as a matter of record is the amount -- it adds up to a lot of money.

Q But when we discussed this previously, we could not find these middlemen had any real functions.

MR. JANES: No useful function.

BY MR. JOLLIFFE:

Q. Is it not possible that he was there, because he was the real moving spirit in the promotion, but he could not sell to the public, because he could not get a license from you, so he arranged the promotion, and then got his option, and gave a sub-option to a registered broker-dealer.

A That goes down to my main objective. I think if you eliminate that worthless type of people, you have accomplished a great deal.

BY THE CHAIRMAN:

Q. You have eliminated those people?

A Yes.

BY MR. JOLLIFFE:

Q. All right. The profits are one thing, and as you said there were exorbitant profits made that

way back in 1945. I will refer to an example in a moment. But we have seen that more recently, since you eliminated most of the middlemen's profits, there are still optionees who give some options. I realize, under your present administration, they must be disclosed in the prospectuses.

A Yes.

Q And the margin is limited?

A Yes.

Q I forget what it was? One-half a cent?

A It is one-half a cent a share.

Q Yet we find it is still being done, and that raises the question, why? Why should it be worthwhile considering giving the transfer tax -- why would it be worthwhile to continue this practice, when on the surface of things, it no longer appears to be possible? Is it possible that the practice is there, because these middlemen, who would no doubt look after the optionees, market the stock to the public, because he cannot do so, because he cannot get a license.

A I do not know that many of the people who have lost their registrations are mixed up in these underwriting companies. I know some of them are. It does not show, but I am certain they are there, in some way or other.

Q I noticed that, too, Mr. Lennox. I noticed that the middleman in some cases seemed to be highly anonymous people, people you never heard of before. Have you noticed that?

A I do not quite follow you.

THE CHAIRMAN: The middleman who appears?

MR. JOLLIFFE: Some of the underwriters listed in the bulletins -- the middleman is more obscure.

THE WITNESS: Yes. It may be a law student or an elevator man; in other words, they are nominees.

BY MR. JOLLIFFE:

Q. In other words, they are representing somebody else.

A Yes. But that is more a problem for the income tax people than the Commission. We do not like it, but you cannot stop a person buying a block of stock.

Q I think this is complicated enough already without introducing any other complicating factor. That is an interesting point, however.

A The Stock Exchange will refuse to list, if they do not approve of the underwriter or the optionee.

Q Even if he is a middleman?

A Yes.

Q You have had considerable experience with "fronts"?
You have caught some?

A Yes.

Q Do you think any of these middlemen are also
"fronts" for operators who do not wish their names to
be disclosed?

A Yes, I think they are nominees.

Q For thoroughly legitimate reasons?

A Possibly so, yes.

Q But you have no actual proof of any case of
that sort?

A No, we have no proof.

Q And even if you had proof, you could not act
against the man who has not a license?

A I do not say just what we could do, except we
scrutinize every paragraph of a deal very carefully.

BY MR. JANES:

Q. Does he use his "front" to escape responsibility or disclosing that he probably is someone with plenty of money, who wishes to have no responsibility in the matter?

A This suggestion might be all right. The income tax people might be more interested than the

Commission.

Q But when --

A You asked me for reasons, am I am giving you one of the reasons. If you get an elevator man who is making \$50. a week, and he makes a profit on his underwriting, and shows it in his income tax, it is not going to be half as drastic as far as the tax goes, than a man with an income of \$25,000 or \$35,000 a year not showing.

MR. JANES: There again your bond would come in handy. He would have to put the bond up.

BY MR. JOLLIFFE:

Q. Mr. Lennox, in a case like that, where the middleman is the nominee, would the company's prospectus disclose the name of the middleman who is the nominee, and the name of the sub-optionee, are you not being deceived? Is that failure to disclose who the real nominee is?

A Some of them do disclose it. A lot of them do disclose it, that they are nominees, and they show that they have a beneficial interest in the option.

Q Would you accept for filing, a company prospectus which showed a man you knew to be an elevator operator, as a middleman?

A I just said "an elevator man". It is not that I believe there was a man who was an elevator man. However, I would not say I would accept it.

Q Would you accept for filing, a prospectus which showed as an underwriter, a man you had grounds for believing or suspecting, was not the real underwriter, but was a nominee of the real underwriter?

A No, not in a case like that. I accepted filings where a person is a nominee and disclosed who he is the nominee for. If a man who is a real substantial person, for instance, takes a trip over to England on business, and wants his nominee to complete a transaction for him, we accept that.

BY MR. JANES:

Q. Why would he have to appoint a nominee? Why could he not complete the transaction himself?

A The option was taken down over a period of ten years.

MR. JOLLIFFE: Would not a power of attorney meet that case?

THE CHAIRMAN: Does it really make a great deal of difference,, unless the middleman controls some broker-dealer who is selling stock to the public? Is that not the real point which is of chief concern to you?

It is a transaction with the public, and the deal that the public gets. Does it really matter who might be behind the company? If the prospectus is right and there is fair disclosure given to the public, and the broker-dealer who actually sells to the public, is independent of the interest behind the company? Does it make any difference?

THE WITNESS: I do not think it makes very much difference. It is recognized, according to our laws, that a person can appoint a trustee or nominee in certain cases. If I was dealing with facts, if I knew of anything in my administration which needed to be done, it would be done.

But I am asked the question if it could happen, and say possibly it could. I do not want to mis-lead the Committee.

I mentioned an elevator man and I admit that I was probably careless, because it was something which occurred before I came to the Commission.-- possibly five years before that.

BY THE CHAIRMAN:

this

Q. Is ~~/~~not the great danger you are up against?

I am sure it is, from your evidence on a former occasion -- is not the great danger that the sort of "front" --

that is, the dangerous "front" -- is the broker-dealers' "front", the man who is not dealing with the public but might be so in control of some other person in the background with a bad record, and whose methods might not be in the best interests of the public -- where a broker-dealer is in the hands of somebody of that kind, there is danger?

A Yes.

Q But as long as the broker-dealer is an independent broker-dealer, does it make so much difference as to who puts up the initial money into the company's treasury and is actually promoting the company.

A As far as the optionee goes, I do not think it makes a great deal of difference, so long as he is financially responsible.

Q Does it make any difference if he is financially responsible?

A If the option lapses for twenty days, we can cancell it.

Q And an option is something he does not have to take up anyway? It is not as if he were on an under-writing.

A We like to see the facts.

Q If he is on an underwriting, then it is important?

A Yes.

BY MR. JOLLIFFE:

Q. Is it possible that this device of the middleman is being used as a medium of exercising control over the "front", namely the sub-optionee by the man behind the scenes.

A It never occurred to me as a very serious problem. I did mention the other day that in cutting down the profits between the option and the sub-option, it was definitely a move in the right direction. But then they have started this device of the optionee, instead of granting a sub-option to a broker-dealer, employs a broker-dealer as an agent and then the profit is not so well defined. The picture is not all here. But I am hoping even that device will fade out of the picture, because these people who have options do not wish to run the risk of being brought into that transaction. They would sooner sell outright to a broker-dealer, and let the broker-dealer be the principal in the transaction.

We went all through that the other day.

2600

Lennox

THE CHAIRMAN: Shall we adjourn until 10.30
to-morrow morning?

MR. JOLLIFIE: Yes, I think that would be a
good idea.

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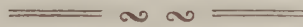
---The witness temporarily retired.

---Whereupon the further proceedings of this Committee
adjourned until Wednesday, August 22nd, 1951, at
10.30 o'clock A.M.

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PROCEEDINGS
of the
SELECT COMMITTEE OF THE
ONTARIO LEGISLATIVE ASSEMBLY
APPOINTED TO ENQUIRE INTO AND REPORT
UPON CERTAIN MATTERS CONCERNING THE
ADMINISTRATION OF JUSTICE IN THE PROV-
INCE OF ONTARIO.



Vol. 18.

Wednesday, August 22, 1951.

E I G H T E E N T H D A Y

Toronto, Ontario,
Wednesday, August 22nd, 1951,
10.30 o'clock, A.M.

- - - - -

The further proceedings of this Committee
reconvened pursuant to adjournment.

All parties present.

Same appearances as heretofor noted.

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THE CHAIRMAN: Gentlemen, the meeting will
please come to order. We will continue with Mr.
Lennox.

OSWALD ELMER LENNOX

A witness previously heard and now recalled,
who having been already sworn, continues his testimony
as follows.

MR. GRUMETT: Perhaps, Mr. Chairman, before
we go ahead with the further questioning of Mr. Lennox,
we might decide about the dates of future sessions.
Some of us would like to know just when we will meet
again.



MR. JOLLIFFE: And also what we are going to do on Friday morning.

THE CHAIRMAN: I think if we met Friday, we should adjourn at the noon-hour, for the day. There is not much point in coming back at the tag end of an afternoon.

MR. JOLLIFFE: No, I think there is a luncheon at 12.30 at the Exhibition grounds. If we decide to go on, on Friday, we might start earlier in the morning.

MR. GRUMMETT: Start at 9 o'clock.

THE CHAIRMAN: There are certain reasons why we should not start too early.

MR. GRUMMETT: I have certain commitments --

THE CHAIRMAN: September will be a pretty busy month for a number of people, from what I can judge.

MR. GRUMMETT: I cannot attend a Session prior to September 14th or 15th.

THE CHAIRMAN: What about the others?

MR. HOUCK: I am available any time in September.

MR. JOLLIFFE: So am I. Do not worry about me. September 17th may suit us all right.



THE CHAIRMAN: I have to go to Saskatoon during the week of the 10th.

MR. JOLLIFFE: That will pretty well consume the week.

THE CHAIRMAN: During the week of the 19th, I have some educational matters in Saskatoon. Then we will have a Fall Session.

MR. JOLLIFFE: That pretty well eliminates all of September, except the week following Labor Day.

THE CHAIRMAN: We had better see how we get on here, and see what the next business is with which we want to deal. What about next week? I do not know how we will get along with the securities problems, nor how far we may have dealt with them.

MR. DOWNER: I think it is a good idea to go on next week, if we are otherwise engaged in September

MR. VILLENEUVE: It is all right with me.

MR. HOUCK: And with me..

THE CHAIRMAN: Let us consider that, and decide on whether we start on Monday or Tuesday. That might be helpful.

Shall we now proceed with Mr. Lennox?

MR. JOLLIFFE: Yes.

BY MR. JOLLIFFE:

Q. Mr. Lennox, when we adjourned last night, I was going to ask you some questions arising out of a case back in 1949. Please understand I am not trying to give the impression that this case is one which could easily occur today, because I realize there have been some changes since, which would make that unlikely, but in the D.L. Young case, there were four very important points in your decision which gave rise to some important questions. The hearing was on Jan. 12th, 1949, and the decision is that of the full Commission, and on appeal from your order cancelling the registration of the appellant as a broker-dealer, this is said in your reasons

"In a fairly formidable mass of evidence based in most part on documentary evidence, the following facts stand out as important factors, any one of which might warrant cancellation:

"1. The adoption of an extremely high-pressure sales campaign.

"2. Making a public offering of securities before the issue can be qualified with the Commission.

"3. Delivery of an engineer's report which had not been accepted for filing, with statutory information required to be delivered pursuant to the provisions of the 1947 Act

"4. Sponsoring a system of options and sub-options, which is fatal to the successful financing of any mining venture."

You will agree that all four of those grounds are extremely important? That is quite fundamental as far as the Act is concerned?

A Yes, up to a point. I cannot recall the facts behind that question of option.

Q Then I will refer to that because it is explained in your reasons and again I want to make it clear that, as I understand it, the changes you have made, make it no longer possible.

Here is what happened on the fourth ground.

"The fourth ground for complaint is on a somewhat different footing. There is no way in which the Commission can exercise control over the matter of sub-options."

This was before the amendment to the Act?

A Yes.

Q Under which sub-options had to be disclosed?

A Yes.

It goes on:

"creating as they often do, a spread in prices which very well might spell ruin to the mining industry if the practice prevails. In the course of this particular financing, Bay Street Securities took a profit of two cents, Tom Brown, possibly a nominee of some interest or interests, whose identity is not disclosed, took a profit of fifteen cents without making any firm commitment. Young selling to the public at fifty cents took a spread of twenty-three cents."

And here is a summary of the results, which seem to be very important:

"Only ten cents found its way into the treasury out of every fifty cents invested by the public, seventeen cents finding its way into the pockets of a person or persons who did nothing toward the development of the mine."

That was divided amongst a number of different people?

A That is right.

Q Of whom some contributed nothing to the venture?

A That is right.

Q (Reading): "Although there is no direct safeguard provided by the Act against this type of transaction it is definitely not in the public interest and it is accordingly a factor to be considered when the conduct of a broker is under review".

Q You say that under amendment to the Act and the present requirements of your Commission and the Broker-Dealers' Association, that could not happen now?

A No, it could not happen now.

Q Actually, is that not a case, Mr. Lennox, in which the cost to the public was 500 percent?

A Correct.

Q Fifty cents as compared with ten cents?

A Yes. And that is before the broker-dealers came into control of the matter of price spread.

Q I realize that. In any event, it is 500 percent?

A Yes.

Q Can you fix the date at which this 500 percent. "racket" became impossible?

A Well, the Act was amended calling for disclosure of all sub-options in the 1950 Session.

Q Yes, that is right. In the Statute Law, Amendment Act of 1950?

A Yes.

Q Put the disclosure itself would not prevent an arrangement such as this?

A Immediately that came into force, we limited the spread to two cents and then realizing that two cents was often sufficiently profitable to attract some of these so-called "fringe operators", we reduced

it to one-half a cent.

BY THE CHAIRMAN:

Q. The spread between what?

A Between the option and the sub-option.

BY MR. JOLLIFFE:

Q. You say the point is apparently that in this case a most unconscionable profit was made by the middleman, -- the middleman in between.

A No question about that, Mr. Jolliffe.

Q When did this limitation of spread take effect? The Act was amended in the spring of 1950; when did the limitation of the spread become effective?

A Immediately the Act became effective.

Q That was about 15 months ago?

A Yes, but we were guarding against the matter earlier than that, because it was again a factor in the cancellation of ^{the} registration of junior golds, and the broker-dealers put up this argument; they said, "It does not matter who gets the profit, as long as the spread between the price to the public and the price paid to the treasury was kept within reasonable limitations."

I think the fallacy of that argument is this; as I said before, about 90 percent. of the brokers

do not take advantage of the ceiling price; they sell below the ceiling price, but these people are not going to sell below the ceiling price, if there is somebody in between them getting a large profit.

Q The language you used referring to that fourth ground, interests me very much.

A It interested me intensely, because I think it is one of the most constructive steps in administration which has occurred.

Q Yes, I think that is one of the most important decisions you ever made.

A I say that is measured in millions of dollars.

Q I was going to read again the language used, in stating the fourth ground. It has already been said that any one of these four grounds might warrant cancellation.

This is the fourth ground:

"Sponsoring a system of options and sub-options, which is fatal to successful financing of any mining venture".

Let me explain what I am getting at, Mr. Lennox, and then I would like your comment.

Yesterday, we were talking a great deal about protecting the public against being victimized. I would like to turn your attention to a little different

aspect of this thing, and that is the nature of this particular method of financing our natural resources. This is "public interest" in a broader sense, and this is what you are referring to when you speak of it as "being fatal to the successful financing of any mining venture."

I would like you to turn your attention to that aspect of it for a moment, because it seems to me extremely important.

From time to time, you are asked to accept for filing, prospectuses which set out the nature of the agreement. This has nothing to do with the selling methods, of telephone calls, or mailings, or even the record of the broker-dealer; it is an entirely different problem. That is the agreement or underwriting option, and possibly sub-option as well, which it is hoped will provide the necessary financing for the development of the mine or the oil property or whatever it may be.

A Yes.

Q To deal with mines, with which we are most familiar in Ontario, would you say it is correct that most of these prospectuses filed with you in the case of mining companies provide for underwritings and options which, if exercised in full, would result in less than one million dollars reaching the treasury.

A No, I do not think most of them would, Mr. Jolliffe.

Q You do not think so?

A No. Remember you told me you were going to send a letter along that line.

Q And you also told me you were going on your vacation, so I thought it would be rather a dirty trick.

A That was unfortunate, because I instructed both the legal branch and the accounting branch to start working immediately on your letter.

Q I did not want to give you the letter if you were going away.

A That is very kind of you.

Q The example I happened to get of a prospectus filed -- I do not need to name it -- this particular prospectus -- apparently was received by your Commission in June of this year and provided for options totalling 1,250,000 shares. This is over and above the firm underwriting, that I think covered 250,000 shares at ten cents, but beyond the underwriting stage which would net the treasury only \$25,000, we have optioned 1,250,000 shares --

A May I interrupt? Despite the fact that we did not get a letter from you, one of the accountants compiled a lot of figures which he thought would

constitute the first stage of your letter. I have this upstairs and will get it at the recess.

Q Perhaps we can have a talk about it. It may not be necessary to pursue the thing any further.

A They took a three-months' period, prior to our new policy, that is, the policy dispensing with options under ten cents, subsequent to that, and shows the improvement. I think these figures will give you a fairly complete picture and answer to your question, and also show considerable improvement since the adoption of the new policy.

Q That is very helpful. At the moment, I am interested in this one million share question, and I will tell you why in a minute.

In this particular case, -- and this is, I believe, a gold mine in prospect -- it happens to be in Quebec but is very close to the Ontario border -- in this particular case, the option covering 1,250,000 shares at a price ranging from ten cents up to one dollar; if that option was fully exercised, the treasury would realize from this 1,250,000 shares, \$450,000. In other words, there would be an average price of a little less than thirty cents a share but it would be \$450,000.

I appreciate there would still remain some shares in the treasury, but not too many, having regard

to the vendor's shares.

BY THE CHAIRMAN:

Q. How many would there be? A 3,000,000 capital, I suppose?

MR. JOLLIFFE: I can tell you exactly. No, in this particular case, the capital is \$5,000,000.

THE CHAIRMAN: Yes, but how many vendor's?

MR. JOLLIFFE: 1,637,500 vendor's held in escrow -- issued and escrowed.

THE WITNESS: That is an old issue, I believe. I mean it **dated** back to 1949.

MR. JOLLIFFE: Incorporated in 1944. This may not be too representative.

THE CHAIRMAN: And in addition to that, the option covered how many?

MR. JOLLIFFE: Just a moment, there is a further step in there.

In addition to that, there have been 250,000 shares sold for cash at ten cents, bringing \$25,000 to the treasury and 275,000 shares at five cents, \$13,750. to the treasury. That was net to the treasury, because no commission was paid.

THE CHAIRMAN: That was done before the issue closed?

THE WITNESS: Definitely.

MR. JOLLIFFE: Yes, and in addition, 10,000 shares valued at five cents, issued for services.

THE CHAIRMAN: \$500.?

MR. JOLLIFFE: Yes. The total number of shares which had already been issued before the properties - those are vendor's shares -- 2,225,000.

MR. GRUMMETT: That is included in this other, is it not?

MR. JOLLIFFE: The escrowed shares are part of those. That happened in 1944. I imagine, under the present scheme of things, that could not happen.

THE WITNESS: No, under the present scheme, the vendor's allowance would be only eighteen percent.

BY MR. JOLLIFFE:

Q. Yes, that goes back to 1944. It is more than one-third of five million.

A Under the present policy, there cannot be that number of shares going out under ten cents.

BY THE CHAIRMAN:

Q. What I would like to get at is this; The number of shares which were issued as vendor's shares and in other ways, which have already been mentioned, and the number of shares optioned, but what is the balance in treasury shares?

MR. JOLLIFFE: You have the number sold for cash, have you not?

THE CHAIRMAN: 250,000, 275,000 and 10,000.

MR. GRUMMETT: Cash and services.

MR. JOLLIFFE: And 2,225,000 for properties.

THE CHAIRMAN: Yes, and the 1,637,500 would be part of that?

MR. JOLLIFFE: That would be part of the vendor's shares, yes.

THE CHAIRMAN: So there would be a total of 2,785,000 shares which have been issued and there is an option --

MR. JOLLIFFE: The option agreement covers 1,250,000 shares.

THE CHAIRMAN: That is 4,035,000 shares; that leaves almost 1,000,000 shares in the treasury.

MR. JOLLIFFE: Yes, it leaves almost 1,000,000 shares in the Treasury.

Now, the optioned shares in this particular case if fully exercised, would net the company less than one-half a million dollars -- \$450,000, and there would still remain, as the Chairman has pointed out, nearly one million shares in the treasury.

THE CHAIRMAN: And that would be worth whatever the market happened to be in the future, which would be, I suppose, anybody's guess.

MR. JOLLIFFE: We will come to that in a moment. What I am thinking of now is what the treasury would get and the result.

BY MR. JOLLIFFE:

Q. Is it not a fact, Mr. Lennox, that you have accepted for filing, a good many issues in which the options are fully exercised, which would not net the treasury one million dollars or anywhere near it?

A There are some. I do not think there are a great many, Mr. Jolliffe. These things have to be read in conjunction with the engineer's report, where the engineer's report would show that a certain amount of money would either prove or disprove the property.

We would ^{be} in a very happy state in relation to the

development of our natural resources, if people would test out the property, and when they see it is worthless, be perfectly frank and candid to the existing shareholders, and say, "It is of no use, and we will drop it" .

Q Let us not be confused about this. I am not suggesting for a moment that the option should be fully exercised if the result of diamond drilling and other work indicates it is hopeless. I am not suggesting that.

I think the proper thing would be then to abandon the option, and abandon any further efforts. But in the event that the work is encouraging, in the event that you have a mine; then the scheme which has been worked out by the promoter, or the optionee or someone who filed with your Commission--^{that} will/be sufficient to bring it into production, or will it become necessary to re-channel the whole thing, re-capitalize and give the original investors only a small part of the winnings.

A I certainly cannot defend a position that the financing in a great many cases, is not adequate. But there are a great many factors to be considered.

The obvious factor now is the price of gold, in relation to bringing a mine to the stage of

development.

Another remarkable case is that even in recent years, the price of lead has gone from five cents to seventeen and one-half cents.

MR. JOLLIFFE: And, of course, the costs have gone up, too.

THE CHAIRMAN: And there is this factor, that once a mine is proven there is never any difficulty in financing.

MR. JOLLIFFE: Yes, but the question is whether the financing can be done through the original agreement or by decapitalization.

THE CHAIRMAN: Does that not depend on a good many unpredictable factors?

MR. JOLLIFFE: If a reasonable scheme at best will net the treasury one-half million dollars or three-quarters of a million dollars, what chance is there of bringing that mine into production, assuming there is a mine -- is such a thing possible? I suggest to you, it is not.

THE WITNESS: I believe that everyone in the mining and securities business appreciates that situation. I think I have^{done} a great deal in three years to remedy that,

doing away with the nickel stock, as they call it, and getting larger firm commitments.

BY MR. JOLLIFFE:

Q. I realize that considerable progress has been made.

A But the problem as outlined is definitely there, but I think if you take it in progressive stages, the whole system will improve, but it is something which cannot be accomplished over-night, because the Commission cannot make contracts for the public. They have certain safeguards, and the question of unconscionable considerations, and we should see that the money to be raised will accomplish the objectives mentioned in the statutory material, but if an engineer says he recommends the expenditure of one hundred thousand dollars on this property, and it will show one thing or another --

Q But he is recommending that for the purpose of enquiring to find out whether there is justification for going ahead and ultimately getting a mine in production. The engineer does not suggest you can bring the mine into production for one hundred thousand dollars.

A But it is proved there is no difficulty, as the Chairman suggested, in raising senior financing.

I can mention a British Columbia mine financed

in Toronto, and they proved they have the ore there, and they raised \$100,000 by a debenture issue, with the greatest of ease. In the case of a mine only qualified in the last six months, they found there was ore, and they raised in debentures 300,000 -- I am speaking from memory --

Q 300,000 what?

A \$300,000 from debentures. So if the value is there, senior financing is easy.

BY THE CHAIRMAN:

Q. Once the value is established, then the question of selling stock in an unproved property is a thing of the past.

The big difficulty arises, as I see it from what the Commissioner said, at the initial stages, where you have speculative properties, which may or may not return anything, where the selling cost of the stock is high, and where the possible gains are very, very great for the shareholders.

MR. JOLLIFFE: That is quite so --

THE CHAIRMAN: But once it is proven, then so many factors come into the methods which might be employed at that stage in raising further money, that some difficulties may arise.

I have had a great deal of experience in mining promotions at one time in my life as a lawyer, and I remember one very significant case, where we had a little company which had only one claim, up in Mr. Grummett's area, where things seem to turn out very well sometimes --

MR. GRUMMETT: Oh, we do have a few failures up there.

THE CHAIRMAN: They sold stock as best they could with great difficulty, and no doubt the costs were fairly high and they did not make much out of it because they got to a point where it looked as if there was nothing.

They re-organized the company three times before they proved anything, and it looked as if it was a stock promotion proposition and then suddenly they struck something, and of course, somebody bought it out, and everybody was pretty well out of it. It is now a good paying, producing mine.

MR. GRUMMETT: That was not the old Three Nations?

A No, it was the Aunor. That illustrates what happens in the early stages of those promotions

MR. JOLLIFFE: I realize that, but let us

see how that squares with this type of venture. The theory is, the original investor pays a certain amount of money for stock, which does not give him very much. He is supposed to know it is speculative, that it is a terrific gamble, and there is probably one chance in a thousand that it will amount to anything. He is supposed to know that, even if the salesman does not tell him.

If it turns out to be a mine -- if, by some happy chance, it turns out to be another LakeShore, and he hangs on to his thousand shares or so, he will ultimately have a very valuable investment.

If the scheme is such that the mine, even if it is another LakeShore, cannot be brought into production without a very great deal of financing, then he is not getting the gambler's chance he is supposed to get.

THE CHAIRMAN: What will you do to improve that position?

THE WITNESS: The senior financing is effected with a convertible feature. A vast amount of independent^{Western} oil developments is carried out on that basis today, and is so important that one of the financial papers ran a feature article on the trend

of obtaining senior financing through debentures with a convertible feature.

I do not think that even a five percent debenture is a very attractive proposition in a mine or oil development, unless it has a convertible feature.

But you are questioning me on a thing which I appreciate, we are looking for.

BY MR. JOLLIFFE:

Q. Apparently you have been getting some.

A Seeing I am my own witness, I will say that I take a great deal of satisfaction in what I have done. It is a step in the right direction. But these things cannot be accomplished over-night. It is not exactly what the Commission does when things are put on a competitive basis, but from it comes this matter of educating the people who are engaged in the promotion of these primary propositions.

The figures I referred to earlier will show that to me it is progressive.

BY MR. JOLLIFFE:

Q.. Now let me put it this way; I appreciate you have been trying to improve the situation --

A I would go farther and say I have improved it.

Q All right, you have improved it. Stock is no

longer being taken down by optionees, at five cents and sold at forty cents. You have stopped that sort of thing?

A Yes.

Q You appreciate the price level has risen in the past five years?

A What do you mean by "the price level"?
You mean the spread?

Q No, we are living in inflationary times.
Twenty cent stock today is not the equivalent of twenty cent stock ten years ago?

A No.

Q If you got a prospectus for filing with an engineer's report which indicated that \$200,000 was necessary to carry out the preliminary work to find out if there is anything worth going ahead with -- this, again, is a hypothetical case -- and if the option agreement would net the treasury at best, only \$150,000 -- not even the \$200,000 -- you would not regard that as a good set-up?

A No, and if I found the registrar missed that, I would call him to task.

Q You do not think it would be accepted for filing?

A No, because it is in the Act that it is the

duty of the Commission to see that the money to be raised will meet the objective. That is putting it roughly.

We are guided in determining what the price is, by the engineer's report.

Q When a scheme is presented to the public, the objective presented is a mine, and where the scheme at best will not realize sufficient to bring in the money, is not the thing doomed to failure?

A I am not inclined to agree with the proposition putting /it to the public is exactly to bring in the money. I think the original idea is exploring the prospects to see if there is any possibility of making money.

Q Like everybody else on this Committee, I have received literature and the original object was that there would be a mine which would be soon opened so there was a mine there.

A To go back to the ground that I have already covered, ^{with} an honest promotion, if they do the preliminary work, and do ^{not} get the results they anticipated, they drop it.

One of the worst features of this whole thing, is when they find they have not got anything, but they keep on going. It is unfortunate they can get an engineer to sign a report there is something worthwhile

when there is not.

All of these things have to be shaded by the fact that people do not know what is under the ground.

Q I want to call your attention to two passages from Mr. Arnold's book on "Free Gold". He has this to say at page 322, about Kirkland Lake. These figures are interesting but not necessarily valid for today, because the book was written in 1946, and relates to a mine brought into production before 1946. He says:

"Kirkland Lake is young as camps go and so complete costs statistics are available.

These are revealing.

"For the seven producing mines, \$4,118,426 was expended in preparatory work, before a single ounce of gold was shipped.

"Add to that \$2,287,600 for plant and construction, and several million dollars more for the purchase of claims and we arrive at a total of \$10,000,000 or more than \$10,000,000 for each mine.

"Nor does the computation account for \$6,000,000 spent for a score of non-producers in the vicinity. And Kirkland, be it remembered, was only six miles from the railroad when discovered so that transportation

was not the major problem of expense it is in remoter camps.

"That close to \$500,000,000 has been produced of which almost one-half has gone into dividends is an extraordinary record, but at the outset, Kirkland presented the usual risks and uncertainties of mining.

"Large profits mean large risks -- the outlay. Canadian mining is played with big stakes; it is no penny ante game."

Even if you excluded the vendor's shares, then two and one-quarter million for plant and construction, and four million, makes a total of about \$6,400,000 for ten mines in the Kirkland Lake camp, and these were brought into production some years back. I think they were all brought into production before World War II.

MR. GRUMMETT: Yes, except the Chesterville one.

THE CHAIRMAN: It depends on what is included in the Kirkland Lake camp.

MR. JOLLIFFE: He is not including Larder Lake. Some of them were there a good many years back.

THE CHAIRMAN: Yes, for instance, Teck Hughes,

Kirkland Lake, Wright-Hargreaves, Macassa -- I do not know when they came into production.

MR. GRUMMETT: In the early part of ^{the} 1930's

THE CHAIRMAN: And Sylvanite. Most of the major mines came into production some years back.

MR. JOLLIFFE: There you have a cash outlay of about \$6,000,000 to bring ten mines into production.

THE CHAIRMAN: That would be \$650,000 per mine.

MR. JOLLIFFE: Yes. Those were in days when costs were much lower than they are today.

THE CHAIRMAN: That is a low average, to bring them into production. That was sufficient to cover everything, was it?

MR. JOLLIFFE: That apparently covered everything. preparatory work and plant, constructions, and so on.

BY MR. JOLLIFFE:

Q. These figures, you would agree, Mr. Lennox, would have to be larger today?

A Oh yes, certainly.

MR. VILLENEUVE: Almost tripled.

THE WITNESS: This is a gold-mining province,

and told-mining is almost a dead issue for prospectors which have such a narrow margin.

BY MR. JOLLIFFE:

Q. But I am thinking of the cost of bringing them into production.

A Yes.

THE CHAIRMAN: There would be the cost of machinery and the cost of labor, and so forth.

MR. DONER: It would be at least tripled.

BY MR. JOLLIFFE:

Q. The other matter to which I want to draw your attention is found at page 334 of this same book, and it is quoting the authority of Mr. Thayer Lindsley, who probably knows more about this matter than anybody else. This says:

"Thayer Lindsley is a peer in mining finances and has classified fund raising as follows:

"1. Prospecting, staking of claims, and optioning claim groups (usually undertaken by individuals and exploration companies).

"2. Development program for the purpose of indicating and outlining ore reserve

(undertaken either by large mining groups or by promoters).

"3. Mine preparation, plant, equipment, and so forth, to place the property into production. (Financed by investment houses or large mining groups or companies).

"The requirement for each stage is:

"1. \$25,000. to \$150,000, essentially speculative.

"2. \$500,000 to \$1,500,000. This stage is still quite speculative, but large capital gains are possible if careful selections are made."

He fixes the requirement for this stage at from \$500,000 to \$1,500,000.

A Yes.

Q Then it goes on:

"3. \$1,000,000 to \$5,000,000. Once a mining property has assured ore reserves, it will appeal to investors. Five to six percent convertible debentures are recommended as a convenient and attractive vehicle at this stage".

That is Mr. Lindkley's opinion. What do you say as to that, Mr. Lennox?

A I do not know that I am qualified along those

lines. We have issues present for filing by men just as eminent in the mining field as Mr. Lindsley, and their intention was to give the public a run for its money and I do not think that the original financing would, in every case, meet that figure.

MR. JOLLIFFE: I would not think so.

THE CHAIRMAN: Of course, there is^a great deal of latitude in what he says. In some cases, it is more than others. He recognizes that.

MR. JOLLIFFE: Take the minimum figure of stage 1, \$25,000, for stage 2, \$500,000 and for stage 3, \$1,000,000.

BY MR. JOLLIFFE:

Q. Now, if there is any substance in that analysis at all, it would appear to be that the kind of promotion in respect to which issues are now made and accepted for filing by your Commission, can cover only stages 1 and 2, at best.

A I think the figures will show differently, those which I can bring down here.

There is another feature. I am not qualified to dispute the figures of Mr. Lindsley or any other practical man. The Commission can only be guided by

the engineer's report as filed for our benefit, and for the benefit of the public.

There is another feature also. Although all the costs of bringing a mine into production have increased over a period of years, by the same token, the instruments they are using and inventing to discover ore, or refine the ore are improving immensely.

Q The technique is better?

A Yes. This is only hearsay, but I hear that even in recent months the question of extracting uranium has seen marvellous developments.

Let us consider uranium, which is a comparatively recent thing. The Dominion Government set a price on uranium. It is comparable with gold. It is marketed on the same basis. What happened? After years of experience, they "up" that price very, very substantially. In the meantime, some prospects operating on the old prices, were branded as frauds by other jurisdictions.

BY THE CHAIRMAN:

Q. For what reason? On what ground?

A Apparently because it was not a success. It is recognized that it could not be a success with a fixed price of uranium.

BY MR. JOLLIFFE:

Q. You mean they were branded as frauds by the

Americans?

A I said "other jurisdictions".

Q The Americans have a point which I do not think has yet been made. Their point is they want the prospective investor told the whole truth.

At the present time, is the prospective investor told that if this issue is a success, there will be enough money to cover the preliminary work, and no more?

A Well, the prospective investor is given the statutory information, the prospectus, and the engineer's report, and that is required to be delivered to him.

Q I suggest to you that the statutory requirements do not make it necessary to disclose that if all this money is raised, it will only be sufficient to cover stages 1 and 2.

THE CHAIRMAN: Surely the engineer's report gives that information, if the prospective purchaser cares to read it.

BY THE CHAIRMAN:

Q. Does the information required under the Securities and Exchange Act in Washington give any more to a prospective investor than the information which is given under our Act, in the sense which Mr.

Jolliffe has in mind.

A The information in the American material -- I put in comparative samples for the Committee to judge for themselves -- in my opinion -- and it is only an opinion -- ours is far more practical, and of far greater value to the prospective investor than the American documents which you heard in Mr. McEntire's letter yesterday, where he speaks about "full disclosure", and he says "We have nothing to do about the price".

Q They do not go nearly as far as you, in attempting to scrutinize some of the price spreads and some of the other matters you have mentioned?

A No, they do not control the vendor's interest.

BY MR. JOLLIFFE:

Q. I do not think they have the power to deal with unconscionable consideration.

A No, they have not, and I do not care how good a proposition is. I mentioned this before, that I had a concrete example of it, when I turned down an issue, where the vendor was going to take a two-thirds interest, and give the public one-third, and call upon the public to put up one and one-half million dollars to get one-third.

I say I do not care how good a proposition

it is in many ways, it is no good to the public.

BY MR. JOLLIFFE:

Q. You would term that an unconscionable consideration?

A Yes, under Section 44.

While we are on that, Mr. McEntire mentioned yesterday or gave the impression in his letter, that you get your qualifications through the Federal authorities, and ^{going} through the various states, is just a matter of routine. I can name you a case of uranium which was not qualified in this province but was in Washington, where the vendor's consideration was unconscionable beyond a degree. The next step was in New York State, and the thing got kicked all over the map in New York State, to the extent that they even sent an investigator up from New York State to Toronto to investigate the proposition before they would qualify it in New York State.

Q Perhaps that consideration aroused their suspicions.

A But it still points to the fact that the stamp of approval of the Federal authorities in the United States does not open the door to the various states.

MR. JOLLIFFE: I am not suggesting for a moment that the SEC or anybody else on the other side has put their argument on unconscionable consideration grounds.

THE WITNESS: No.

BY MR. JOLLIFFE:

Q. As I understand their argument, it relates to other matters, but I think it is of importance with us. For one thing, the term "unconscionable consideration" is read into our Act.

I was going to ask you on how many occasions you have relied on Section 44(b) to reject a prospectus for filing.

A From one source, I turned down two in the area but it does not generally result in rejecting them. It generally results in adjustments downward. But I would say a very substantial number. That was taken up in discussing this matter of unconscionable consideration, because they always want to get the limit or over the limit -- in most cases they do -- and they have a lot of arguments they want to advance.

Q And it is almost conclusive that if you were not there, there would be a lot of them?

A I have a staff there, I just put the final touch on them.

Q If the Commission were not there, there would be many cases of unconscionable consideration, I take it?

A You only have to go back twenty-two years to get the facts on that.

Q Well, of course, what I have been asking you about is not really related to unconscionable consideration; it relates to the question of whether that type of financing of a normal scheme in Toronto and eventually accepted for filing -- probably after amendment -- will actually give the original investors a fair run for their money?

A I think we can finalize it in this way; that there is a great deal of room for improvement. We are working toward that improvement, and are making adjustments all the time.

Since we are discussing it, I can remember a case where a person wanted to option one million shares at ten cents, or eleven cents, or something like that -- and the Commission would not allow it.

There are a lot of cases like that.

I think I might briefly refer to what the Toronto Stock Exchange has adopted as its policy to try and control and correct this situation. This will have a bearing on our administration, too.

They **will** not permit an option agreement to cover more than one million shares at a time, and that the successive increases shall not be under five cents, and when they limited the option agreement, or the under-writing agreement to one million shares, they hold back a sufficient number of shares for future financing, if the property shows sufficient merit.

BY THE CHAIRMAN:

Q Is that not pretty well the key to the whole situation? As long as you have sufficient un-issued shares remaining in the Treasury, which are not tied up under option, when the mine is proven, you have something to work on.

MR. JOLLIFFE: I think that is^a vital point, whether there is anything left in the Treasury, because if there were Treasury shares still un-issued, and the mine was a very hopeful one, then obviously the company could proceed to sell the shares themselves.

THE CHAIRMAN: Without any difficulty; probably through the Stock Exchange.

MR. JOLLIFFE: Yes, and probably at a much higher price.

THE WITNESS: I think this is very important. I think it is half the battle --

THE CHAIRMAN: Then it ceases to be "promotion".

THE WITNESS: There is a policy on the Stock Exchange. We are trying to educate the people who file with us along the lines, because we say, "If you are not successful, you come to the point where you wish to list on the Stock Exchange, and you will be confronted with difficulties, unless you adopt this policy at the outset."

BY MR. JOLLIFFE:

Q. That is an interesting point, and I am glad you raised it. Are you accepting for filing any issues which have disqualified themselves in advance for listing---so to speak?

A. No, they come to us first and they list afterwards.

Q. Yes, I know, but I would hope that you would not accept for filing any scheme which would make the

company's shares ineligible subsequently for listing on the Stock Exchange.

The reason I say that is that the investors have a right to expect that if the enterprise is hopeful, it will be listed eventually.

BY THE CHAIRMAN:

Q I suppose an example of what you have in mind is the rule on the Stock Exchange which limits options to 1,000,000 shares? If the Commission allows an option of more than 1,000,000 shares, quite plainly that stock cannot be listed, as long as those options are outstanding?

On the other hand, in order to become listed, the optionee can always drop his option?

A I think it is possible that this whole matter has been canvassed by the Stock Exchange. I think the next step in order to understand the policy, is to get the B. D. A. together.

THE CHAIRMAN: Of course, it is in the interests of the optionees to have the stock listed.

BY MR. JOLLIFFE:

Q There are qualified shares at the moment which cannot be listed, without amendments?

A Oh yes, because this policy of the Exchange

is comparatively new.

Q Then in those cases which ante-dated that ruling, there is no chance of listing, because there are options?

A That is right. They will only permit an option on 1,000,000 shares, that no more than 200,000 shares can be optioned at one price; that the increase between the options will be at least five cents, and all these things are constructive, and I think in time will be universally adopted.

Q Those are the things the Broker-Dealers do not tell their prospective purchasers, that is, that under a recent ruling of the Stock Exchange this stock cannot be listed unless there is a change in the situation? Those are the things he keeps quiet?

A The Broker-Dealer does not know about it, because I hope I have an opportunity of getting together with the Broker-Dealers.

Q Surely they know the requirements of the Toronto Stock Exchange?

A Not necessarily.

Q It seems to me they should. It seems to me if a Broker-Dealer does not know the requirements of the Stock Exchange, he is not competent to be a Broker-Dealer.

MR. GRUMMETT: He is not fair with the public.

THE CHAIRMAN: Well, I do not know that that is so.

BY MR. JOLLIFFE:

Q He may be perfectly honest, but I do not think he knows the business enough to be in it?

A Not all successful mining properties are listed.

THE CHAIRMAN: And there are Stock Exchanges beside the Toronto Stock Exchange, where they may desire to list.

MR. JOLLIFFE: I am well aware of that, but I suggest that the reasonable hope on the part of the investors is if the stock amounts to anything, it will be listed.

THE CHAIRMAN: But not necessarily on the Toronto Stock Exchange. It may be on the Montreal Stock Exchange.

THE WITNESSES: Mr. Jolliffe, this is an absolutely new thing. It is dated September 1st, 1950. There is some mistake about that. It was only cleared through the Commission about a month ago, and it is not in force yet. They have here "September 1st, 1950," but I think that is in error; I think they mean "September 1st, 1951," when it will become effective.

As soon as we get the Broker-Dealers together,

they will be instructed along these lines. But the Registrar is already instructing individuals to offer prospectuses for filing along those lines.

BY MR. JOLLIFFE:

Q That ruling relates to a ceiling of a 1,000,000 option?

A Yes.

Q Does it also relate to the five cents advance subse-

A Yes.

Q There must be an advance of five cents--

A Suppose a block of 200,000 shares goes out at 25¢. The next stock will have to go out at 30¢, instead of $27\frac{1}{2}$ ¢.

It struck me as peculiar that the Stock Exchange would consider this proposition, but it is not as simple as we might think, sitting here. The Stock Exchange does do constructive things, and they say: "That is the policy." They consult with the Montreal Exchange, and the Calgary Exchange, and other Exchanges for the purpose of trying to make the thing uniform, and that takes considerable time. I do not need to elaborate on that.

Q It would not take 15 or 20 years?

A They have been in existence nearly a hundred years.

THE CHAIRMAN: Shall we adjourn for a few minutes?

MR. JOLLIFFE: Yes.

-- Thereupon a short recess was had.

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---Upon resuming.

THE CHAIRMAN: Gentlemen, shall we proceed?

BY MR. GRUMMETT:

Q Mr. Lennox, I just want to clear up a point which has been worrying me this last couple of days. When your officers pulled off this raid a few days ago, of the Burgess firm, they discovered a man there who was an objectionable character, and they had some difficulty with him at the time.

My point is this; do you not think we should have an amendment to your Act which will permit your officers to hold the same powers as the police officers? Your investigator had no authority to hold this man, Kaufman, although they knew he was an offender. They had to let him go, and wait until the next day, until you reported to the Hon. Attorney-General (Mr. Porter) and obtained his sanction for the arrest of this man.

Do you not think it would be better if your officials had the same power as police officers?

A That is an isolated case.

Q They do not always run?

A There is another feature to it. We have

riddled the jurisdiction of this objectionable character. The County of York is relieved of the expense of prosecuting him.

BY THE CHAIRMAN:

Q He has gone, has he?

A The word I have just received is that Mr. Kauffman is not to be found, but thirty-five suits of clothes are hanging up in his hotel, so the inference is, he left rather hurriedly.

Q Thirty-five suits at one hundred dollars each, is thirty-five hundred dollars.

MR. JOLLIFFE: What size did he wear?

THE CHAIRMAN: Should these not be impounded?

THE WITNESS: If the Commission could realize on those suits and distribute the proceeds amongst the people who bought the oil issue, all right, but he must have left very hurriedly that night.

BY MR. HOUCK:

Q Mr. Lennox, which type of development of a company gives you the most difficulty, the development of the mining companies, or the oilfields?

A So far the oil development has caused us the most trouble. It is new, and the majority of the oil promotions which have been promoted in Ontario and financed in Ontario, have given us quite a lot of trouble.

 We have corrected the situation to a large measure by curtailing release of vendors' shares in oil companies, and there is a trend now for the local promoter to participate in drilling in the better fields, rather than devoting all his efforts to drilling these shallow and comparatively non-commercial fields.

BY MR. GRUMETT:

Q Mr. Lennox, coming back to that point I raised; is there any objection to having your officers or investigators possess the powers of police officers?

A I think it would be rather dangerous.

Q In what way?

A Well, policemen are trained along certain lines. Our chaps are really not trained along those lines, or some of them are not.

Q Is there any great hardship or any great inconvenience in having your investigator take known

offenders, when they discover them in Ontario, to the police station, and have other officers there lay the charges?

THE CHAIRMAN: They can always call in a policeman. They have done that on some occasions.

MR. GRUMMETT: In this case they did not, and the man got away.

THE WITNESS: I do not think we had sufficient evidence then to arrest him right on the spot. It is a matter of legislation at any rate, and this was an isolated case.

BY MR. GRUMMETT:

Q In any event, you considered it serious enough to ask for his arrest the next morning, did you not?

A Yes. It was serious enough to ask for his arrest the next morning, Mr. Grummett, purely on the ground that an American citizen could readily cross the border.

If he had been a resident of Ontario, we would have laid a charge without having a warrant for his arrest.

Q I see the difficulty in your officers doing a considerable amount of investigating, and carrying on cases straight through, and then being suddenly confronted with an offender and being powerless to stop him from escaping.

They have not always police officers at their beck and call.

A Well, there have been cases where we have had a search warrant, and we have anticipated the risk of a breach of the peace, and we have called for assistance from the police department to escort our investigators.

Q When you say "breach of the peace", do you mean some crime would be committed, connected with the selling of the stock, or do you mean a fight occurring in the office?

A The person in custody of certain documents may use violence or threats against some of our investigators. Some of them are not very big.

BY THE CHAIRMAN:

Q They are not physically equipped such as our policemen are supposed to be?

A Three of them are, and three of them are not.

Q Not five feet, eleven inches?

A No.

MR. GRUMMETT: Lots of little fellows can handle themselves, too. I think that is a point which should be given some consideration, Mr. Lennox.

THE WITNESS: Yes, I will consider it very carefully, Mr. Grummett.

BY MR. HOUCK:

Q You have taken a lot of credit -- and I think rightly so -- yourself -- for the improvement in the securities business in the last three and a half years. Let me ask you if you think it is not fair that the broker-dealers should get some of the credit, too.

A I think I have been very generous in giving them credit, where credit is due.

BY MR. DOWNER:

Q Previously speaking, you gave them a great deal of credit?

A Yes. I made a distinction between the elected board and the original board. I do not give

the original board an ounce of credit; I give them a lot of discredit.

But I think the Board as now constituted has introduced very constructive ideas.

Q Trying to do a good job?

A Yes.

BY THE CHAIRMAN:

Q Yes. I think you said before that the policy you adopted sometimes in licensing broker-dealers who were not members, brought the matter to a head.

A I think I brought it absolutely to a head. I think I used the term that they "needed a dose of medicine, and they got it", and that is my feeling all the way through.

BY MR. JOLLIFFE:

Q Have you some figures you wish to give?

A Yes, Mr. Jolliffe. This (indicating) is not conclusive.

The first step in getting information we hope to finalize, but I think now some of these figures will throw some light on your question, as to whether the

exercize of an option in full would raise sufficient capital to produce a mine?

I think there are a lot of cases where it would not, and there are cases where it will.

These figures (indicating) are only indicative; they cannot give you the picture you look for, but I think they throw some light on the question; that is, in regard to the metal and mining issues, and certain oil issues.

In the last three years we have taken a number of shares covered by an issue qualified with the Commission, and the price at which those shares were optioned, in other words, the price paid to the Treasury.

Q The number of shares qualified?

A Yes. That was in a three-months' period. I am showing round figures, but there were thirty-six million shares optioned.

BY THE CHAIRMAN:

Q This is all oil?

A No, metals, Mr. Chairman.

Of that thirty-six-million, one million, nine hundred and fifty thousand shares were optioned

at one dollar. I am showing you that the option price was probably higher than you would anticipate.

There were two hundred thousand at one dollar and twenty cents; roughly five hundred thousand at one dollar and twenty-five cents; four hundred and fifty thousand at one dollar and fifty cents; two hundred and fifty thousand at two dollars.

From here on I will refer to the large blocks only. One million, three hundred and fifty thousand at seventy-five cents; one million at sixty cents; two million, seven hundred and twenty-five thousand at fifty cents; one million, eight hundred and seventy thousand at forty cents; one million one hundred and fifty thousand at thirty-five cents; two and one half million at thirty cents; three million, five hundred and fifty thousand at twenty-five cents.

BY MR. JOLLIFFE:

Q How many at twenty cents?

A Three million, six hundred and seventy-five thousand at twenty cents.

Q That is the lowest figure?

A No, there are some at fifteen cents, and that is a high figure. Four million, five hundred

and ninety-five thousand at fifteen cents.

Q And none at ten cents?

A Oh, yes, I am working up. One million five hundred thousand at twelve and one-half cents, and two million, six hundred and forty-five thousand at ten cents.

Those are options.

Q You do not permit them below ten cents?

A No -- no options below ten cents. Only firm under-writings.

Q What were the number of shares at one dollar and fifty-cents? Was it four hundred and fifty thousand or five hundred and fifty thousand?

A Four hundred and fifty-thousand.

Now, that is in 1951. There were thirty-six million odd shares optioned, to realize fourteen and one half million dollars.

In the same period in 1950, -- that is, the early part of 1950 -- before our new policy --

Q These figures you have just given us; were they for the first three months of 1951?

A Yes, the first three months of 1951.

In the first three months of 1950 there were just under twenty-four million shares optioned for

just over seven million dollars. That shows a very substantial improvement in the year 1951.

BY MR. HOUCK:

Q On twelve million shares?

A The main consideration was raised relative to share consideration, just jumping from the twenty-four million, to thirty-six million.

BY MR. JOLLIFFE:

Q Have you no figures there of under-writing?

A Yes, I have.

Q I mean firm under-writing.

A Yes. Those issues I have given you were accompanied by firm under-writings. The way the auditor has broken them down, he has broken them down in metal and mine issues, where there were both options and firm under-writings. Then he has another list where there was no under-writing, but merely options.

I have given you the ones where there were both.

The firm commitments in that same period covered the issue I have read, because you cover eight million, five hundred and twenty-thousand

shares for one million two hundred and thirty-four thousand dollars, in round figures.

Q And you have a comparative figure for 1950?

A Yes. There were three million, seven hundred and eleven thousand shares for three hundred and forty-six thousand, seven hundred and forty-nine dollars.

BY THE CHAIRMAN:

Q That is firm under-writings?

A Yes.

MR. JOLLIFFE: There is a big increase there.

BY THE CHAIRMAN:

Q What was the total number of shares in 1950?

A I gave that; it is three million, seven hundred and eleven thousand.

Q No, that is firm under-writing.

A Oh, that would add up with the three million odd firm, and twenty-three million-odd option, and would be thirty million odd.

Q For the whole year?

A No, for the first three-months figures. Those

figures I have just given you show you in actual dollars and cents the money value in eliminating this so-called "nickel stock".

Q This represents only those issues where options were accompanied by firm under-writings?

A Yes.

Q My suspicion would be, they would be the ones presenting a better picture?

A Yes.

Q How about the ones where there were no firm under-writings?

A I have the figures here. In the case of the same three months period in 1951, there were thirty-seven million shares under option, for something over ten million dollars, and the highest option was a one-dollar option.

Q That would be at the tail-end of the scheme?

A The last option, but that was over a million shares. It was practically one and three-quarter million shares option at fifty-cents, nearly three million shares at thirty-cents, one and one-half million shares at thirty-five cents, and one million, six hundred thousand shares, at forty cents.

Q At forty cents?

A Yes.

Even this picture would be much improved, Mr. Jolliffe, if it were not for some issues which have been qualified in previous years which had a lot of stock out, but below ten cents, and they are brought in again for re-filing. I see here there was stock at below ten cents (indicating), indicating it was sold prior to May, 1950.

Q How many below ten cents?

A There is one hundred and forty-thousand at five cents; one hundred and four thousand at seven cents; two hundred and fifteen thousand at seven and one-half cents, and three million, six hundred and eighty-two thousand at ten cents.

BY THE CHAIRMAN:

Q It was not very much below the ten-cent computation?

A No. At ten cents or below there was eleven percent of the shares out in 1951.

In the same period in 1950 there was twenty-six percent out, so that is another illustration of the practical results of that policy.

Then the reduction in the vendors' interests has a tendency also to hold back more shares,

free of option, for future development.

Q That is the next point I want to turn to, unless there are some other figures you wish to give.

A I will leave this (indicating) with you, but I would like to have it back?

A MR. JOLLIFFE: Oh, yes, surely, I will give it back to you to-morrow if you wish.

BY MR. JOLLIFFE:

Q Regarding the vendors' shares, Mr. Lennox; I know you were good enough to explain to us some aspects of that question, but it requires further clarification.

At the present time you accept for filing, a scheme under which, shall we say, one quarter of the stock is issued for properties, and becomes vendors' shares, and of that one-quarter -- which might be seven hundred and fifty thousand shares -- ninety percent must be placed in escrow?

A Yes.

Q Which would be all but seventy-five thousand shares?

A Yes, sir.

Q You have indicated on another occasion that some of this vendors stock is used to "sweeten the deal," as far as the promoter or broker is concerned; where does that come from? Out of the 75,000 free stock?

A Yes, it came in the first place from free stock or there might be a transfer within escrow.

Q That is what I wanted clarified. A transfer within escrow ---many of us in the committee are laymen, and some of the rest of us are lawyers, and have had little to do with these matters in recent years. Shareholders have been prosecuted for transferring or alienating stock within escrow? That happened up at Kapuskasing a year or so ago.

A That chap obtained transfer within escrow from different individuals, and he was selling people without a license these escrowed shares.

Q Will you tell us to what extent vendors shares can be transferred or pledged or otherwise dealt with within escrow, that is, within escrow of the type of which the Commission imposes?

A I do not think there is any harm in transferring within escrow.

A prospector has 500,000 shares within escrow, and he goes to one of his friends and explains the thing

and says: "I need some money," and they are transferred on his request, with the consent of the Securities Commission, and escrow shares are usually sold at a discount, that is, at a price below the prevailing price.

BY THE CHAIRMAN:

Q Because they are not marketable?

A Yes.

Q They can only be transferred in that way with the consent of the Commission?

A Yes.

BY MR. JOLLIFFE:

Q Tell, is that so? Must the consent of the Commission be obtained?

A Yes.

THE CHAIRMAN:

Q Is that not one of the terms of the escrow you accept?

A Yes.

BY MR. JOLLIFFE:

Q Let me put this to you; let us assume the vendor of a property is one man---one prospector?

A Yes.

Q He gets 750,000 shares?

A Yes.

Q 75,000 shares are free, and he sells them at the best price he can to provide himself with a livelihood for the time being, but supposing, when he comes down to Bay Street, the promoter who takes on the deal or the broker who takes on the deal insists privately on getting one-half of his escrowed vendor stock, which would be 325,000 shares?

MR. GRUMLETT: Less the 75,000?

THE CHAIRMAN: He has sold the 75,000.

BY MR. JOLLIFFE:

Q It would be 330,000, or thereabouts. What happens to those shares? The broker cannot sell them to anybody without your consent?

A No, Mr. Jolliffie. The broker acquires them when they are released, and our policy as to release from escrow, ^{is} we consider the money raised for the treasury, and the money actually put into the property by way of development.

Failing any consideration along those lines, the limit is one share for every three shares sold.

Q Take it from the beginning. Under this understanding between the prospector and the promoter, can the prospector transfer 330,000 odd shares to the promoter,

or if he did without your consent, would that be illegal?

A They cannot be transferred, because the transfer agency will not act without our consent.

Q They would not be transferrable until released?

A No.

Q On the other hand, the broker or somebody else might get the 75,000 free shares and sell them at a substantial discount?

A The broker gets the free shares at a terrific discount, and sells them, along with treasury shares, if in the prospectus it is disclosed that he is selling vendors shares along with treasury shares, but in the case of Mr. Harry Price, he started selling vendors shares along with treasury shares, but did not make that disclosure in the prospectus.

Q That sort of thing can be very profitable?

A Absolutely, Mr. Jolliffe. I think this question of vendors shares---this is the representation made by the Broker-Dealers; I think I have referred to it before ---that it is the profit flowing from these vendors shares which allows a lot of these "fringe operators" to carry on and indulge in excessive high pressure sales methods.

Although in the last three years we have curtailed the release of vendors shares very strenuously, the Broker-Dealers are urging more stringent regulations, and we are going to have more stringent regulations, and at the same time have safeguards in favor of the prospectors, who lives as a result of his work in the bush.

I think we will go a long way with the Broker-Dealers, but I doubt if we will go as far as they want us to go. After all, the prospectors---although there are not as many as there used to be---are entitled to some consideration and protection.

Q Of course, if the Broker-Dealer is not selling the 10% free vendors shares, it is very much in his interest to have them tied up, if he is not selling them, because they may ruin the market?

A Yes. We have had several representations along that line from persons engaged in primary distribution, because these shares will come in competition with the shares in the treasury.

Q Is not consideration given to cash payments in lieu of letting him have some free stock, that is, of paying the prospector or the seller of the property some cash and escrowing all the rest of the shares---in fact, escrowing all his shares?

A There are cases where there is a small cash consideration.

Q No, I am suggesting it as an alternative to the release of the 10%? Would that put an end to some of these manoeuvres in free stock?

A Yes. I had a case I dealt with yesterday noon, where a prospector got \$6,000,^{and} 200,000 shares for a claim, and these 200,000 shares are all escrowed for a period of one year, and at the end of one year, the full 10% can be released.

Q That is the alternative I am suggesting.

A Yes. There are occasions like that.

Q In a case like that, there would be no free stock at all?

A No.

Q There would be no possibility of anybody^{getting} in there during that year?

A Yes. You will recall, Mr. Jolliff, that is the case of our Western oils. I give the Broker-Dealers credit for that; there are no vendors shares.

Q Would that not work pretty well in the case of oil?

A It was an excellent idea in the case of oil.

Q Would it not be a good idea to accomplish that same principle in connection with mines?

A I think it would be, with this qualification; that the prospector does not enter the picture in the oil fields at all, but he does in the mining fields.

Q But the prospector is going to realize some cash anyway. He has got to live. That being so, why not pay him cash, out of the proceeds of the sale of the shares, and give him stock, too, but escrow all the stock? Let him have the cash he needs immediately out of the cash from the proceeds realized from the sale of treasury shares, and then you would know there just was not any free stock going around to be manipulated on the market?

A Is that not pretty much making a contract for some person? The Commission then is making a contract for outside parties.

Q Oh no. You have repeatedly imposed restrictions on the freedom of the public to make their own contracts; there is no reason in principle why you should not place another restriction?

A The restrictions we impose are right in the statute. The Section you referred to this morning, in particular.

Q The 10% restriction? That is in the Statute?

A Yes, it is in the record, because it says the Commission will make such arrangements as it deems satisfactory governing the release of the vendors shares.

Q All right. If you make that 90%, and you consider that 100% is more satisfactory than 90%, there is nothing to stop you from making that rule, and the inevitable result would be the prospector would get some cash?

A I think it would be unfair to the prospector, if the Commission did not give him any free shares at the outset.

Q Not if he got cash?

A The Statute does not say anything about "cash"; it speaks of "vendors shares." There is nothing in the Statute to give the Commission power, that I know of, to insist on cash in lieu of shares.

Q Surely, indirectly, that would be the inevitable result?

A We will talk about the little men again. Suppose he has not any cash to pay the prospector?

Q Mr. Lennox, that is not the point. Obviously he has to have some cash, and there are two ways in which he can get that cash. One is by getting 10% of his stock out of escrow, which he can then sell at some price nobody knows anything about---that is one way of getting some cash.

The other way is for him to get cash which, of course, would appear in the prospectus and everybody

would know exactly that it was directly from the company?

A Supposing the company has not any cash?

Q They are going to be selling shares, and they are paying salaries to their people.

A Yes, but this has to be done before they sell shares.

BY THE CHAIRMAN:

Q Is the 10% release of the escrowed stock, released in some of these cases, sufficient to do any harm?

MR. JOLLIFFE: Apparently the Broker-Dealers Association thinks it is doing a lot of harm.

THE WITNESS: No, the Broker-Dealers backed up this 10%, at the time this policy went into effect, in 1950.

The Broker-Dealers---and rightly so---were asking for the curtailment of the release of vendors shares.

BY MR. JOLLIFFE:

Q What they are talking about is not the 10% which in most cases the prospector gets free?

A No. I think they confined--

Q It is the policy in regard to subsequent releases?

A Yes.

MR. JOLLIFFE: The one out of three. That is the ceiling.

THE WITNESS: Yes.

BY THE CHAIRMAN:

Q I suppose that might go to the prospector, and it might not, depending on what the deal was?

A I think what happens is this; one of these dealers gets the 10% at a very great discount, and then he has a contract to secure further shares if, as and when they are released. I think that is the way it works out from a practical point of view.

BY MR. JOLLIFFE:

Q The more shares the broker sells the more he acquires in free stock from the prospector?

A Yes.

THE CHAIRMAN: Shall we adjourn now until 2.30?

MR. JOLLIFFE: Yes.

- - -

-- The witness temporarily retired

-- Whereupon the further proceedings of this Committee adjourned at 12.45 o'clock p. m. until 2.30 o'clock this afternoon.

- - -

AFTERNOON SESSION

Toronto, Ontario,
Wednesday,
August 22, 1951,
2.30 o'clock p.m.

- - -

The further proceedings of this Committee reconvened pursuant to adjournment.

All parties present.

Same appearances as heretofore noted.

- - -

ACTING CHAIRMAN DOWNER: Are you ready to continue, gentlemen?

OSWALD ELMER LENNOX, a witness previously heard and now recalled, who having been already sworn, continues his testimony as follows:

BY MR. JOLLIFFE:

Q Mr. Lennox, we were on the subject of vendors shares, and before we leave that, I want to be clear about this; it is suggested by the B. D. A. that there should be a further restriction on the issuance of vendors stock. What do they suggest; that it should be restricted all along the line, that they should be restricted at the outset, or released more slowly, or in

smaller blocks from time to time---or both?

A I think, Mr. Jolliffe, the main idea is that the release throughout should be slower.

Q Rather than one for three, possibly there should be a different ratio?

A We look at the whole picture. Before we give a release, we get a financial statement of the issuing company to see how much money has been raised, and how much of that money has been spent on the development of the property.

Q I understood you to say that, generally speaking, you are willing to release one for three?

No. I said in the absence of any other factor, the ceiling would be one for three.

Q That would be the ceiling?

A Yes.

Q But there always are other factors, are there not?

A Usually there are other factors. You always find that money has been raised for the treasury, but in many cases you find it has not been spent on development. That may be a matter of season, some times.

Q I have just picked up the latest bulletin available---that is, June 1951?

A. Correct.

Q The subsequent bulletin is not out yet?

A No.

Q In that bulletin you publish releases from escrow since the last issue of the bulletin, and I would gather from those mentioned here that in most cases the block of stock released is a very large block. It is on page 23 of the bulletin and is headed "Consents to release from escrow since last issue of bulletin." And I see here:

"Packsack Mines Limited: Release of all the escrowed stock pro rata to all persons entitled thereto. Effective date of release, May 17, 1951."

In that case it was all released?

A Yes.

Q And then:

"Ajax Petroleums Limited: Release of 50,000 shares pro rata to all persons entitled thereto. Effective date of release, June 1, 1951. 800,000 shares remain in escrow."

The block released in that case was only about 6%?

"Arrow Tungsten Mines Limited: Release of 55,000 shares, being 10% of the shares presently escrowed, pro rata to all persons entitled thereto. 495,000

shares remain in escrow. Effective date of release, June 1, 1951.

"Monogram Petroleums Limited: Release of 75,000 shares pro rata to all persons entitled thereto. Effective date of release, June 1, 1951. 675,000 shares remain in escrow."

That is 10% also?

A Yes.

Q (Reading):

"Oilcrest Petroleums Limited: Release of 75,000 shares pro rata to all persons entitled thereto. Effective date of release June 1, 1951. 675,000 shares remain in escrow."

10% again?

A Yes.

Q (Reading):

"Edson Oil Company Limited: Release of 61,250 shares pro rata to all persons entitled thereto. Effective date of release, June 6, 1951. 813,750 shares remain in escrow."

That is only about 5% or 6%?

A Yes, that is a very new company.

Q (Reading):

"Hy-Flo Petroleums Limited: Release of 170,000 shares pro rata to all persons entitled thereto. Effective date of release, June 12, 1951. 680,000 shares remain in escrow.

"Lashburn Petroleums Limited: Release of 273,333 shares pro rata to all persons entitled thereto. Effective date of release, June 19, 1951. 726,667 shares remain in escrow."

In that case, it was about one-third?

A I think it was fairly well-financed, and is a fairly old company.

Q (Reading):

"Quebec Copper Corporation Limited: Release of 190,000 shares pro rata to all persons entitled thereto. Effective date of release, June 19, 1951. 485,000 shares remain in escrow."

That is about 20% or 25%?

A That might be a special case. Quebec Copper has been listed on the Stock Exchange, and would have a say in that release, and they might have agreed to a fairly big release there, to have the circulation of a

block of stock.

Q (Reading):

"Gridoil Freehold Leases Limited:

Release of 30,000 shares pro rata to all persons entitled thereto. Effective date of release, June 19, 1951. 60,000 shares remain in escrow."

You are releasing one-third there, all at once?

A Yes, but that is another old company.

In some of these cases they might not have applied for release when they were entitled to it, but that would be taken into consideration when later on they do apply for a release. If there were many people participating in the vendors interests, it might be there were a lot of transfers within escrow, and one thing and another. It is a fairly expensive operation from the point of view of the charges for the transfer agent.

Q There would be some legal costs?

A Yes.

Q One would think that in the case like Quebec Copper, where 190,000 shares were released at one fell swoop, and which presumably came on the market---I do not know what happened in this case; I do not know the company at all, but I would be inclined to suspect that people who knew what was going to happen, would govern themselves

accordingly before it happened, if they knew that 190,000 shares were coming onto the market, possibly for sale. Would that not give an advantage to the man on the inside track?

A He would still be gambling on the Commission giving its consent and the Toronto Stock Exchange giving its consent, if it was listed at that time.

Q But he could protect himself against a fall in the price of the stock by having the advantage of knowing that an application was before you for release, which the ordinary shareholders in Port Arthur or Los Angeles or wherever they might be, would not know of at all?

A That would apply in the case of all releases. The person on the inside knows their chances of it being released.

There is a danger of a man selling short and counting on filling his short position out of the release from escrow.

Q That is right. I was wondering about that. It seems to me that ^{the} more it may be necessary for a larger block of stock to be released at one time, the more the door is open to all sorts of manipulation on the market?

A Alberta is supposed to be the top ranking administration on the North American Continent on these subjects.

Q I did not say that.

A Well, I know it. That is what they are represented to be, and they only allow one for one out, if you can believe Mr. Blackstock's statement.

 That is what happened in Ontario up to the time Mr. McTague took it up, and then I have taken it up further.

 Is there not this difference, Mr. Lennox? If they, as a matter of course, release one for one, at least the public knows what the score is; they then know that there is going to be one share of escrowed stock coming on the market for every share that is sold?

A Yes, but we have to think of the treasury as well as the public, because if the treasury is not safeguarded, the public will not be safeguarded.

 I will agree with you, Mr. Jolliffe, that on the face of that, it requires some explanation. On the face of it, it looks like an abnormal release. There must be special circumstances, and it might have been --

Q You mean in connection with Quebec Copper?

A Yes.

Q The Toronto Stock Exchange must have consented to that one, too?

A It was listed at that time. I know it is a recent listing, but I cannot fix the date of that release.

Q The date of this release is June 19th, 1951.

A I am not sure. I know it is a listed stock now, but I cannot fix definitely the date it was listed.

And I think probably the Quebec Commission had a say in that, because I think it is qualified in Quebec.

Q Well, I will not pursue it--

BY MR. GRUINETT:

Q There is just this further question: Would it be feasible and possible for your Department to announce beforehand what stocks were going to be released, or what escrow holdings were going to be released? That is, insert a notice in the press stating, for instance, that "One month from this date certain shares will be released, and certain stocks will be

released?"

MR. JOLLIFFE: Or even two months. .

MR. GRUMETT: Yes, a month or two months in advance. That would give notice to the general public.

THE WITNESS: It would assist the public in the case of a listed stock.

MR. VILLENEUVE: Yes, in the case of a listed stock, it would be of assistance.

THE ACTING CHAIRMAN:

Q A listed stock only?

A We do not have much trouble with listed stocks.

I have in mind some members of the legal profession who take a very keen interest in bettering the situation about providing certain safeguards against men selling short against the vendors pooled stock, and I know what happened about a year ago, but that appears to be an isolated case, and it is just a question of whether an isolated case such as that would warrant any specific ruling on the matter.

However, we have the matter under advisement.

BY MR. JOLLIFFE:

Q You mean that one case of that kind has come to your notice?

A Has come to our notice, yes.

Q Only one, so far?

Yes.

Now, can you give me an answer to this one? Supposing that in the first or primary distribution, the Broker-Dealer's license is suspended; that means he is no longer in a position to continue taking down stock from the treasury and selling it to the public?

A Yes.

Q And let us suppose that during the course of the primary distribution, he has picked up some vendors shares at a little or no cost to himself, and is holding them, and there may be a small market for that. I assume there would not be much of a market if the public knows that he has been suspended and the options are being abandoned.

But, supposing he wants to get rid of this stock which is his own property, at a very low price, a price which might represent a profit to him because he paid little or nothing for it?

A Yes.

Q Can he sell on his own account without "trading" as defined by the Act?

A No, there are two considerations there. If it is vendors interests, and in nine cases out of ten if it came from a source which might materially affect control within the definition of "primary distribution," Section 1, Clause 1 on page 2. I will read the pertinent parts:

"'Primary distribution to the public',
used in relation to securities, means"-----
and clause "1" (ii):

"Trades in previously distributed securities for the purpose of redistributing such securities to the public where the securities form all or a part of or are derived from the holdings of any person or company or any combination of persons or companies holding a sufficient quantity of such securities, or of the securities from which such securities have been derived to materially affect the control of the company which is the issuer of the securities."

Q So that in the example you give, in most cases it would still be primary distribution, and he would be debarred from selling them, having lost his registration?

A Yes.

Q Then, if it did not come under that, he would have to bring himself within the "isolated transactions exemption"?

A Yes, and it is a question of fact in every case as to how many trades take you beyond the exemption.

BY MR. HUCK:

Q In other words, Mr. Commissioner, would you say that the cancelling of a broker's license has a serious and detrimental effect on the stock holders?

A That brings up a rather interesting point. I think that is the worst mistake I ever made since I have taken over this job. I think it was very poor judgment. If a broker has fallen down, the chips must fall where they may, and he has to go. I learned that lesson the hard way.

Q If the issue has any merit, it would not seriously affect the company, because it is easy enough

to get another dealer to take over the transaction.

BY MR. JOLLIFFE:

Q That would not affect the company, in the long run?

A No. It is bound to affect it--

BY MR. VILLENEUVE:

Q Momentarily it will?

A Yes. There has been a tendency now to have more than one Broker-Dealer participate in a distribution.

Here (indicating) is a case where we cancelled Burgess yesterday morning, and there are five people participating in that issue, so it does not affect the issue one way or the other.

I also brought it down, because Mr. McIntyre gave us credit for an improvement in the literature, and he also said that people were "copy cats," that there would be a certain form of literature, and it would sweep across the street, and so it will.

These people (indicating) are "copy cats" because they practically copied the advertising set-up

adopted by a much more successful company, which has now listed its stock.

So you see the good will spread as well as the evil.

I have not checked the information in that (indicating), but I would say it is a conservative form of advertising, and vastly superior to the type of advertising we saw years ago.

BY THE CHAIRMAN:

Q There is nothing wrong with copying somebody else's type of advertising, if it is a good type?

A No. The trouble is that somebody gets an idea, and it spreads throughout the industry, and the reason is because they have had the same writers, as they call them, on Bay Street.

Q That sounds like a radio system?

A Yes. My opinion of some of these writers is pretty low.

BY MR. JOLLIFFE:

Q In the case of investment dealers; they frequently make offerings in collaboration with each other? In fact, you might say that it is standard

practise with large issues and standard dealers?

A Yes.

Q If there was more of that amongst the Broker-Dealers would that not be a good thing? Would it not lend itself to the success of the stock?

A Yes, an excellent thing, and I am very glad to see it spreading.

Q I suppose one of the difficulties is if one of the Broker-Dealers gets into trouble, he may prejudice the position of the others?

A There is a slight difficulty there. But there is another thing, to guard against, and that is that the group are not all in the same camp.

Q You mean they belong to different factions?

A No, that the whole group is not "fronting" for one man.

Q For one "back end"?

A Yes.

Q Well, in that same connection, Mr. Lennox; you may think I am a very tiresome fellow to come back to this again, but I do not think we have got the final figures on it yet.

You told us, as I recall it, there are about

35 or 40 Broker-Dealers who give you trouble in actual practise?

A There have been consistently a number of Broker-Dealers who engage extensively in these mailings and telephonings.

Q And I think you said that, generally speaking, it is the same group which has given you trouble?

A Yes, they are. They are the group which are discrediting Ontario across the border and in the other provinces.

Q Would you say it was nearer 35 or 40?

A I cannot be sure, Mr. Jolliffe. I think it is probably nearer 35.

Q And I would gather from what you said a moment ago, and what you have said on other occasions, that probably some of them are "fronting" for one man or one interest?

A Unquestionably "fronting" exists. Personally I think that Burgess is a "front."

Q But he is out now?

A Yes.

Q As of yesterday?

A Yes.

Q What I mean is this; that you spoke of 35 Broker-Dealers; is it not your suspicion that several of those may be "fronts" for one man, who has perhaps previously been cancelled by you?

A I think they are. I think the big "fronts" you can divide into two camps.

Q What I am suggesting is that one man may have more than one "front"; he may have several "fronts"; is that not your suspicion?

A Yes;

Q So actually the source of this trouble may narrow down to much less than these 35 people? It could narrow down to much less than that?

A Yes, if--

BY THE CHAIRMAN:

Q You may have 35 "fronts"; and they may represent only a half a dozen principals?

A Yes.

BY MR. JOLLIFFE:

Q That is possible?

A Yes.

Q Is that in fact your suspicion? Regardless

of what you can prove?

A It is largely my suspicion.

Gentlemen, I indicated during the first hearing that, roughly speaking, you can speak of two factions on Bay Street. Why I say that is that one faction is always sending the message via the grapevine that the other faction is going to do something, and vice versa.

I certainly think the Committee knows there are certain factions, because we keep getting anonymous communications about what a rascal such-and-such a person is, and they are not in love with each other, but when you refer to "factions" you are referring to Broker-Dealers; you are not referring to the other people.

I am referring to the Broker-Dealers, that there are set-ups---people who are looked upon as "fronts", representing one individual or a group of individuals, and there is another set-up described as "fronts" which are sponsored by another dealer.

Q There is some rivalry between them?

A Yes.

Q And, of course, you do not take sides with either gang?

A I hope I do not.

Q I do not think you can be accused of that.

Now, turning to the figures again; do you know how many licensed Broker-Dealers there are as of today?

A It is changing from day to day.

Q It seems to be?

A Yes.

BY MR. GRUMETT:

Q It changed yesterday, did it not?

A Since the adjournment there have been two resignations, one definitely for ill health, and I think possibly the other could not get a bond, and there was a cancellation.

I thought I had the figures--

BY MR. JOLLIFFE:

Q I can give you the exact figures from your April bulletin. I had them counted. In your April bulletin, there were 184 listed registrants.

A There are a lot fewer since then.

Q And I think, according to the bulletin, there

were eleven cancellations. Are all the cancellations reported in your bulletin?

A No. The last cancellation I did not even give a decision. I just cancelled them.

Q What I am getting at is were there cancellations between January and June which were not reported?

A Yes, there are.

Q Then there has been more than eleven cancellations since April?

A I think there are some which have not been reported, and there are quite a few resignations in there, too.

Q New licencees?

A There has not been a single new licensee since the 1st of April. Really makes history, and shows where we are getting ahead with the proposition.

Q At the last meeting of this Committee, I think you made an estimate---it may not have been an exact figure---my recollection is you estimated there were about 140, exclusive of Stock Exchange members?

A Yes. I think I did give that figure.

Q Let me give you these figures. Let us go back to April.

A During the recess, I can go up to the Registrar and get the exact figures.

Q Perhaps that would be better.

BY MR. FOUCK:

Q Before we leave that subject of the stockholders: Can you tell us, offhand, have you ever heard any talk of a union being organized amongst the shareholders of the Dominion of Canada, for their own protection?

A Mr. Sutton has come into my office and discussed the matter, and has written to me.

BY MR. JOLLIFFE:

Q Who is that?

A Mr. Sutton. He is right here (indicating). I believe he did the same with my predecessor in office.

Q Was that the only rumour you heard of a union being organized?

A And it was discussed, I believe, with the Broker-Dealers. I believe he took it up with the Broker-Dealers.

Q And they turned it down?

A Yes.

Q Have you seen the letter from New York purporting to be addressed from the Independent Investors, Inc., addressed to the Attorney-General?

A Yes.

Q And it was released to the press?

A Yes.

Q With some fanfare?

MR. CHAIRMAN: Perhaps I had better produce it.

MR. JOLLIFFE: I think it should be in the record of the Committee.

THE CHAIRMAN: I will get the letter now--

MR. JOLLIFFE: Before you go, I would like to make it clear that I am not advancing that letter as evidence.

THE CHAIRMAN: Absolutely, but I think in view of the fact that it was directed to me, it should be before the Committee. As a matter of fact, I intended to bring it yesterday, but I overlooked it.

THE WITNESS: Shall I proceed?

BY MR. J. LILFEE:

Q Yes.

A I have seen that letter, and my first reaction to it was that it was sponsored by a gentleman from New York City, whom I had heard of before, because he had written to Mr. McTague on various occasions. I had an appointment with this gentleman in June, I believe, and then he telephoned and said he had to return to New York sooner than he anticipated, and he could not keep the appointment.

His name does not appear anywhere in connection with this matter, that is, on the letterhead, or anything else.

I made enquiries about him, and I have not heard any person who is prepared to recommend him favorably to the Commission, in any way, shape or form.

Q Is there any evidence to show that he was connected with that letter?

A I am trying to show that. The Broker-Dealers Association telephoned to the New York office and

asked permission to speak to this gentleman, and the answer was---and this is, of course, hearsay, but there has been a lot of hearsay in these proceedings-- the answer was "He is out of the office at the moment." So I think that is about as good evidence as the letter or anything else, that we have heard, that he is associated with this Investors Association.

Q Does it make any difference whether he was associated with the letter? What about the contents of the letter?

A I was waiting for the letter, to see the contents.

Q Well, we will wait for it to come down?

A Yes.

Q I think the Committee had better know the name of this man you mentioned. Is not his name Smith, or something like that?

A No. The person---I am not saying anything against the man, except that I could not find any person who would recommend him--

Q He is a public relations man?

A Yes. His name is Foster, and he is well known in Toronto.

Q As a matter of fact, he had previous dealings with the B. D. A.---or attempted to?

A I believe so.

BY THE ACTING CHAIRMAN: Shall I read this letter?

MR. JOL IFFE: I suppose so. I think Mr. Lennox should be given an opportunity to comment on it at the end of it, or as we go along.

THE WITNESS: I will comment on it at the end.

THE ACTING CHAIRMAN: This letter reads as follows:

"Honorable Dana Pärter,

"Attorney General,

"Province of Ontario,

"Parliament Building,

"Toronto, Ont., Canada.

"Dear Sir:

"This is addressed to you as Chairman of the Ontario Legislative Crime Commission which is now investigating the securities business of your province.

"Our organization is a union of small investors in North American enterprises, designed to protect the interests of minority shareholders.

"In that capacity we speak for thousands of Americans who have suffered loss through investment in Canadian mining and oil companies.

"Have not these losses resulted from lack of effective regulation, and the inability of the Ontario Securities Commission, and government-created Broker-Dealers' Association, to curb the unethical practices of Ontario brokers that are the cause of loss? We favor self-regulation, but it must do the job!

"We are informed that more than 5,000,000 Americans own shares in Canadian mining and oil companies for which there is no market, and which cannot even be sold at a loss!

"In most instances the treasuries of the companies have been exhausted or are without sufficient funds to carry on operations.

"We recognize that these speculative issues were bought by inexperienced investors but that seems to offer more need for effective regulation and protection.

"We are informed that the securities commissions of practically every state, and most of the Canadian provinces, have registered complaints with the Ontario Securities Commission. We are further informed that in most instances the Ontario Securities Commission has not even acknowledged these complaints and, therefore, has probably not investigated them. Is this so?

"You probably know that the United States Post Office, in a widely publicized statement, announced that it has issued 'fraud' orders against more than 75 Ontario brokers and denied them the use of the U. S. mails.

"We are informed that many of the brokers involved made slight changes in their firm names, moved to new addresses, and are continuing to operate under new licenses issued by the Ontario Securities Commission. Is this so?

"We are informed also that last year

the Canadian Post Office Department denied use of the Canadian mails to a long list of Toronto brokers on the grounds that literature being sent into the United States, and many parts of Canada, was of a fraudulent nature. Is this so?

"We understand that in that instance the Ontario Securities Commission issued a notice to the Toronto press advising brokers who had not received their licenses, apparently because their mail was stopped, to call for them at the Commission's offices. Is this so?

"We have been advised at least one member of the Board of Governors of the Broker-Dealers' Association has a police record. Another Governor, an American citizen, representing the salesmen's division of the Association, holds top position as salesman of paper mining stock in the United States. Do you confirm this?

"These matters are not in accord with the high estimate that Americans have of Canadian prestige and soundness. We be-

lieve that many Canadians, particularly in communities that depend upon American tourists for support, resent the acts of the "Bay Street clique" that may affect their livelihood.

"Our organization is not approaching this subject from a remote point, without having had the benefit of some study and investigation. We plan to see that the interests of our members at least are protected.

"We are urging the American press to ask all holders in the United States of Canadian mining or oil shares to provide our organization with full information concerning their transactions. Later we may take such action as to insure representation of these investors at meetings of the companies involved.

"Should investigation disclose gross irregularities, civil or criminal action may be asked on behalf of American shareholders in the Canadian courts.

"We urge that your investigation of this matter be as complete and corrective as

your inquiry into gambling and other crime, and that results will make it unnecessary for our organization to seek further action.

"Americans are cognizant of the many fine opportunities for investment in Canada, and Canada needs that financing to develop its great natural in-the-earth resources. That development is important to Canadians and the entire world. As the United States reopens its "Arsenal of Democracy" many metals for instance will be needed that have become scarce, which Canada has in abundance. As Canada recovers its metals, and converts them into useful wealth, every Canadian will benefit.

"Your committee is delegated to do an important job. If you do it well, and provide suitable protection, ample venture capital will continue to flow across the border. If proper adjustments are made to protect American investors, various American securities commissions will again offer their help to your great country.

"We recognize that many important factors

are involved, as they are in all investigations by political bodies. In closing, we are confident that your committee will make politics secondary to the importance of your mission, and will realize its effect upon international relations, and will correct the resentment Canadians and Americans have against the acts of a few that reflect upon Canadians as a whole.

"Yours sincerely,

"(signed) Benjamin A. Javits

"President."

MR. JOLLIFFE: What appears on the letterhead?

THE ACTING CHAIRMAN: Independent Investors, Inc., 630 Fifth Avenue, (Rockefeller Center), New York.

THE CHAIRMAN: What is the address?

THE ACTING CHAIRMAN: 630 Fifth Avenue, Rockefeller Center, New York City. And is signed by Benjamin A. Javits, as President.

EXHIBIT NO. 131: Letter August
2nd, 1951,
Javits to
Attorney-General,
as produced by
the Attorney-
General and
read by the
Deputy Chairman

THE CHAIRMAN: We can acknowledge one point
anyway, that we have not a political Committee.

THE ACTING CHAIRMAN: On the last page is a list
of the Board of Directors of this Independent Investors,
Inc.:

"Mrs. Amos L. Beaty, New York,
"Martin Birnbaum, New York
"Edward T. Clark, Florida,
"Haldan Gregersen, New York,
"Benjamin A. Javits, Connecticut,
"Mrs. Howard C. Lawrence, New Jersey,
"Douglas McCrary, Texas and New York,
"Frank E. Mullen, California,
"Alison Reppy, New York."

MR. JOLLIFFE: Who is Benjamin Javits?

THE ACTING CHAIRMAN: The fellow who wrote it.

MR. JOLLIFFE: "Economist, lawyer and author."

It sounds like the hon. Attorney-General (Mr. Porter).

THE CHAIRMAN: He has demonstrated it in the letter he has written. Perhaps I should reply now in a literary way.

THE WITNESS: He mentioned 5,000,000 Americans being involved in this so-called swindle. If you refer to the information given by the Better Business Bureau of St. Louis, there were \$52,000,000, so they are losing an average of ten dollars each per year.

BY MR. JOLLIFFE:

Q These might include shares which grandfather bought in 1915?

A Yes, and they do not draw attention to the fact that some of our best mines are virtually controlled by American capital, and they forget about their winnings.

THE CHAIRMAN: I suppose the 5,000,000 would include shareholders in International Nickel and Noranda?

MR. JOLLIFFE: They put it on the other side of

the picture. They say:

"We are informed that more than 5,000,000 Americans own shares in Canadian mining and oil companies for which there is no market, and which cannot even be sold at a loss."

That does not refer to Nickel.

THE ACTING CHAIRMAN: Those are the bad ones.

THE CHAIRMAN: If the \$52,000,000, which the Better Business Bureau mentioned, is reduced to, say, \$9,000,000 at a minimum, as Mr. Lennox worked it out---

THE WITNESS: Just \$9,000,000.

THE CHAIRMAN: Then the amount of loss per shareholder is perhaps insignificant.

THE ACTING CHAIRMAN: \$2.00, or \$1.75.

BY MR. JOLLIFFE:

Q Before we leave that; it occurs to me that the estimate Mr. Lennox made was very interesting, but it may be possible to find out exactly how much money is coming in for the purchase of Canadian securities,

because when that money comes in, the securities have to be shipped out, do they not?

A Yes.

Q Am I not right in saying that the Foreign Exchange Control Board knows exactly how much it is?

A I think they do.

MR. JOLLIFFE: I am inclined to think we should ask to have this figure from the Foreign Exchange Control Board.

THE CHAIRMAN: I think that is a very good point. If the facts are available with complete accuracy, it is much better to have those figures.

MR. JOLLIFFE: In connection with this whole subject; there has been so many statements made by so many people, I would very much like to see it narrowed down to facts, which can be established.

THE CHAIRMAN: Whether or not the Foreign Exchange Board could segregate that sort of transaction with which we are concerned, from other shipments of stock, I do not know. At any rate, I suppose we could make an attempt to hear them.

MR. JOLLIFFE: They may have shares segregated from bonds.

THE CHAIRMAN: Yes, but there must be a great many going and coming across the border.

MR. JOLLIFFE: I would suggest that the Committee, through its Chairman, communicate with the Foreign Exchange Control Board and ask them if they can assist us. I think there has been too much wild talk.

MR. VILLENEUVE: Too much exaggeration.

THE CHAIRMAN: No doubt there has been exaggeration. There no doubt have been some abuses, but not on the scale as represented, by any means.

THE WITNESS: The next item I have noted is the change in firm names.

MR. JOLLIFFE: I do not know as it is necessary, but I would move that this Committee, through its Chairman, communicate with the Foreign Exchange Control Board and see if they can help us.

THE CHAIRMAN: I will undertake to do that.

(Motion agreed to)

THE WITNESS: The next I have is related to this question of fictitious names, and gives an illustration of a broker in good standing.

There was a brokerage firm doing business in Toronto for many years under the name of Gordon Daley and Company. Then Mr. Mallen carried on under that name after Mr. Daley either died or retired from business, and they call that a "fictitious name."

This would seem to me to affect an awful lot of Old Country law firms, as a matter of fact.

So Mr. Mallen incorporated, and called his concern "Gordon Daley and Company Limited"--

MR. JOLLIFFE: You will permit me to interrupt you. I think it is not only the Old Country law firms which use the names of long deceased members, but New York law firms as well.

THE CHAIRMAN: And Toronto.

MR. JOLLIFFE: Including Messrs. Sullivan and Cronwell. I do not know how long they have been dead, but it is a long time.

THE WITNESS: That would be fictitious, under the S. E. C.

One broker carried on under the name of Brentwood Securities, and he was forced to drop that name and use his own name.

Q Who forced him to do that?

A The United States Postal authorities classified it as "fictitious," and they had his mail stopped.

Q The charge is that after there was an order issued against him in one name, he got a license under the name of "Brentwood Securities"; is that correct?

A No. He dropped "Brentwood Securities," and used his own name.

Q It was the other way around?

A Yes. I am dealing with this letter (indicating exhibit 131). I am not dealing with the official S. E. C. attitude. They are dealing as their laws dictate.

This goes back a little further. In March of 1950 all of these fraud orders started to fly around from the Postmaster-General's Department, at Ottawa. I would have thought at least that the Postmaster-General's Department could have done would have been to notify us who had the orders. We are not mind readers.

I am not trying to mislead anybody, I did find out, but I did not get it officially.

Q Do you mean you had to ask for it?

A Do not embarrass me. I did not get it from Ottawa.

Q I think we should get the name of this. I understood you to say that the Postmaster-General issued orders denying the mails to a number of businessmen in Toronto, and they did not notify you?

A Absolutely, they did not notify me.

Q You testified that at some time or other the information came into your possession?

A Yes. But the one point I am trying to make is that at the time Ottawa did not give me the information. If Ottawa wanted us to take action, why did they not let us know?

I said I did get the list, but not at the time.

BY MR. HOUCK:

Q Did you try to get it from Ottawa, and it was refused?

A No, I did not try to get it from Ottawa. I am

giving this to try and explain the difficulty the Commission was encountering in dealing with this situation.

BY MR. JOLLIFFE:

Q Two questions very naturally arise in the minds of anyone. Question number one; why in heaven's name would not Ottawa notify them, and question number two, if they did not, why did you not write them and ask them for the names, and that you had been protesting that they did not send the names to you in the first place?

A Because I managed to get the names probably as quickly as I would have got them through Ottawa. I wanted to know whether Ottawa would send me the information. It is not an isolated case. The United States authorities did the same thing.

We are corresponding with/about 47 states in the Union and the S. E. C., and a lot of others, and I wanted to know what Ottawa's attitude was in the matter.

Then they talk about some person,:

"Another Governor, an American citizen, representing the salesmen's

division of the Association, holds
top position as salesman of paper
mining stock in the United States."

I do not know what that means. I do not
understand it.

Q That has reference to the salesman's representation on the Board?

A That is quite evident that it refers to the salesman's representation on the Board, but why should he be called the "top"---what is the exact phraseology? "Top position as salesman of paper mining stock in the United States."

I do not know what that is. It does not mean anything to me.

THE ACTING CHAIRMAN: It was the Governors of the Broker-Dealers Association they are talking about.

THE WITNESS: No, the salesman's representative.

THE ACTING CHAIRMAN: Oh yes. It says:

"Another Governor, an American
citizen, representing the salesman's
division of the Association, holds

top position as salesman of paper
mining stock in the United States."

MR. JOLLIFFE: I suppose it means he sells
more than other salesmen.

THE CHAIRMAN: He is successful in his avoca-
tion.

THE WITNESS: He was registered with the Commis-
sion in 1933, and that is rather a pertinent date,
because that is when the Federal Securities' laws were
passed in the United States, and in view of all
communications, no doubt some of you have received
the same information I have, and we will have to inves-
tigate to see what the truth of the matter is.

I do not know of any member of the Board of
Governors with a criminal record. If he has, it has
been a matter of appearing before the full Commission
in the general review, and the Commission has con-
sidered he has paid his debt.

If it is necessary, we can check further on
that.

THE CHAIRMAN:

Q May I ask this? Have you ever had any letters from this organization, the Independent Investors Inc., or any correspondence with them at all?

A I do not think so.

Q And the thing that occurs to me, you would think that an organization of this kind, interested in protecting, as they say, a certain group of shareholders--

MR. JOLLIFFE: 5,000,000.

BY THE CHAIRMAN:

Q ---if they had any complaint, the first person they would get in touch with promptly would be the Securities Commission?

A I think Mr. Foster is connected with that organization, and he corresponded extensively with Mr. McTague some years ago..

I think, sir, you were out of the room when I explained it. I had an appointment with Mr. Foster in June, but he was unable to keep it because he had to return to New York earlier than was anticipated.

BY MR. HOUCK:

Q Just along that line; what have you to say about this paragraph:

"We are informed that the Securities Commissions of practically every state, and most of the Canadian provinces, have registered complaints with the Ontario Securities Commission. We are further informed that in most instances the Ontario Securities Commission has not even acknowledge these complaints and, therefore, has probably not investigated them."

A Mr. Cameron, the senior solicitor, has gone up to get our mailing records which is a well-kept system of checking people, and checking correspondence, and we have, I would say, scrupulously answered every communication.

The only vestige of truth there could possibly be in that would be that people receive a letter concerning those against whom cease and desist orders are issued. They are mimeographed, and sent all over the United States, and across Canada. They are merely

routine, and I think do not need to be acknowledged.

I do not think there is any more reason for us to acknowledge those circulars which they send out almost daily, than there is for them to acknowledge our bulletins, which we send out.

BY THE CHAIRMAN:

Q There has been no significant complaints brought to your attention by mail which has not been answered, that you can recall?

A The secretary of the Commission keeps books for which I have sent. I record every letter that comes in and the member of the staff to whom it has been referred, and she has to be satisfied it has been disposed of, and then she marks it with a "C". It is as good a record as possibly could be kept.

If some person is dilatory, she gets after them. She gets after me frequently. Probably I am the worst offender.

BY MR. GRUMMETT:

Q What comment have you to make on the paragraph in that letter which states that when some of these brokers had their mailing privileges cancelled and were

not receiving mail, that you sent a special message to them to call in and get their licenses, knowing they had their mailing privileges cancelled?

A I think the letter says that we had notices inserted in the press advising the Broker-Dealers ---and all and sundry---to call for their mail. I think that is really absurd. I think that sort of relegates that letter for what it is worth.

What did happen? March is the registration period, and some of these Broker-Dealers had sent in their \$150.00, but had not received an acknowledgment for their money, let alone their registration certificate. Our own mail was returned to the Commission, and somebody in the Commission rang up the broker and said: "If you want to get your license, you had better call for it."

a
That was/period when we were still in the dark as to what had happened. I heard of this mail ban over the telephone from a person down on Bay Street. That was the first intimation I had of it.

BY MR. JOLLIFFE:

Q. I do not think that quite covers the situation

with regard to that mail ban, Mr. Lennox. Did you at any time ask the Postmaster-General for the evidence on which he had acted? There must have been some evidence?

A No, I never asked the Postmaster-General for the evidence.

BY MR. GRUMETT:

Q Nor did he voluntarily send you that information concerning the ban?

A I might as well tell you the whole story about the mail ban, although I did not think it would add anything to this.

The whole thing was instituted by the United States authorities. They found there was an individual here who was making enquiries and this individual was acting on the information supplied by a local informant, and it is quite evident that the local informant had an axe to grind, that he was in one faction or the other, because some of the worst offenders operating in Toronto as a group were left out of the mail ban.

BY THE CHAIRMAN:

Q Were left out of the mail ban?

A Yes, and that is common gossip on Bay Street. I think the mail ban was not worth the paper it was written on, because it merely disrupted everything.

Q You understood there was some local informant ---somebody connected with the brokerage business?

A There is some person in Toronto who was conversant with the whole situation, and knew what camps the different factions fell into, and he was feeding the information to the people who were investigating this matter, and it was usually erroneous information, as a group in Toronto which caused 12% of the trouble went scot free, while they very carefully banned the mails to some of a group which had lost their licences months before, so the mail ban was meaningless.

Q None of the informants ever gave you the information they claimed to have?

A No, I do not know who they are.

Q Nor did the United States authorities give you the benefit of that information?

A No, they did not.

BY MR. JOLLIFFE:

Q But you have received copies of the findings of the U. S. postal examiners?

THE CHAIRMAN: That is quite a different matter.

MR. JOLLIFFE: It is information. As I understand, he did not even get that from the Canadian Post Office.

THE WITNESS: I got a copy of the fraud orders from the United States authorities in April of this year. Here (indicating) is a letter addressed to me from Walter G. Holden, dated April 30th, 1951.

It reads as follows:

"Dear Mr. Chairman:

"Mr. Callahan has referred to me your request for photo-copies of fraud orders issued by the Post Office Department in this country.

"I am arranging to have photo-copies of these orders made, and will forward them to you as soon as they are completed."

Later on they came through the Customs. That letter shows I requested them.

BY MR. JOLIFFE:

Q In April of this year?

A Yes, in April of this year.

Q Prior to April of this year, the United States Post Office had not sent you any of their orders?

A That is right.

Q The only official notice you had of that was what appeared in the S. E. C. bulletin, I suppose?

A They were noted in the S. E. C. bulletins.

BY MR. GRUMETT:

Q How long afterwards did you receive these bulletins? -- after the orders were made?

A They are issued monthly. They are monthly bulletins. But I do not know whether they were U. S. fraud orders or Canadian fraud orders. I do not think they would publish their own fraud orders, because even this article in the St. Louis Star-Times refers to "secret indictments" and they keep those things quiet so the unsuspecting victim will cross the border.

When it comes to that, they would publish our official fraud orders the same as we did. The S. E. C. notes Ontario cancellations and Ontario prosecutions, by the same token.

BY MR. JOLLIFFE:

Q Mr. Lennox, even accepting the particular mail ban by the decision of a foreign tribunal, and also accepting the proposition---as I do---that if they want cooperation, they should also be cooperative, and they should send you the information they have without any request for it.

THE CHAIRMAN: That is, if they want you to act on it.

BY MR. JOLLIFFE:

Q In any event, they should probably do it. Even accepting all that, the question still arises should not the Ontario Securities Commission ask for the evidence and the particulars of any case dealt with by a Federal authority or by a foreign authority involving an Ontario registrant?

In the case of the Dominion authorities---

our own Dominion authority---I think the question is very pertinent, but immediately the fraud orders were imposed, applications were made to Ottawa to list them, and they were all listed.

Q Yes, but even so, and even if your administration is to have its maximum effectiveness, should you not have at your command all the evidence, for whatever it is worth, on which other tribunals have acted---if they will give it to you?

A Well, I have already acted on that, Mr. Jolliffe, because I can, I believe, get the material on which Ottawa has acted now.

I was discussing the matter with an official, and I said I would get in touch with them as soon as this hearing was over for the purpose---not of getting the formal fraud orders---but of getting the material on which the fraud orders were founded.

That is already under way.

THE CHAIRMAN: We shall suspend for five minutes.

-- Whereupon a short recess was had.

-- Upon resuming:

-- The Chairman now in the chair.

THE CHAIRMAN: Very well, gentlemen, we will proceed.

BY MR. GRUMETT:

Q Mr. Lennox, in connection with something you mentioned before. I just cannot see why you would not consider it good policy to contact the other jurisdictions to find out what steps they have taken against Ontario stock brokers, or why they took certain steps against them. I think that would give you a lot of useful information, if you did that, would it not?

A I have just sent for a file to show you the difficulties we have in corresponding with some outside jurisdictions. Their representations, through the press, is that the difficulty rests with Ontario. All we have to do is to enquire. I think this file I have sent for will demonstrate that it is just about as difficult to get information from some outside jurisdictions as it is to investigate the thing from scratch itself.

Q And you said you had not enquired from Ottawa regarding the mail stoppages. I was just wondering why you did not say, "Now, I am Chairman of the Ontario Securities Commission; it is my job to administer the work of the Commission; I would like to know just what you have against these brokers".

A Well, if I did not, I was probably guilty of poor judgment. But I explained I had very little faith in the whole operation. I thought they had missed the point.

Q You had no faith in the judgment used by the postal authorities?

A I did not put it that way, but if you can believe what you read in the press -- and I do in this instance -- the report is that Ottawa, in the future, will not impose a fraud order against any individual without a hearing; that there will be no further ex-parte orders.

BY MR. JOLLIFFE:

Q. That is a little different principle. They must have had some evidence but, in any event, I do not know how one can conclude what the value of the evidence is without seeing it -- whatever it was.

There is a further point; I think they are under some obligation to give it to you, if you ask for it. The Judicial Committee of the Privy Council held, in 1932, that security matters were within the jurisdiction of the province. I think it is up to the Federal authorities to co-operate.

MR. GRUMMETT: And supply the information they have in their possession.

THE WITNESS: I have an arrangement now where I will be able to get the material on which these orders are founded.

I would like an opportunity now to introduce some evidence with respect to answering correspondence and complaints.

Every day the Secretary of the Commission -- who is also my Secretary -- lists every piece of mail which comes in to the Commission, and identifies it.

For instance, we have here (indicating) B. R. Pierce of Wyoming. The subject matter is "L. & B. Petroleum". It was referred to Mr. Jarvis, and when Mr. Jarvis has disposed of that, there is a "C" entered, indicating "complete".

There (indicating) is February 1st, covering the first bid, and 7/8ths on the second bid.

There (indicating) is February 2nd. And so on, day by day, and month by month.

Moreover, we keep a record of every letter that goes out. Most every office does that, but every piece of mail is recorded, and here (indicating) is the record from February of this year on, and I think the record speaks for itself.

Then, Mr. Jolliffe, I will have, in a very short time, a complete record of the number of the members of the Broker-Dealers' Association.

BY MR. JOLLIFFE:

Q. This is quite a lengthy letter and while being read over, it is not easy to recall all the questions asked, and I think it is in your interest as well as the public interest, that some of these statements which have been made, should be cleared up.

The statement is made here (indicating) that many of the brokers involved in these fraud orders made slight changes in their firm name and changed their addresses, and continued to operate under a new license issued by the Ontario Securities Commission. And it asks, "Is this so"? Is there any case where, following a fraud order, a broker-dealer changed his name and moved to a new address, and then got a new

license from your Commission?

A Not that they changed their names. They abandoned their "fictitious name", as it is termed in the United States, and in many cases, reverted to their own name.

They might have moved their offices, but we have had an illustration, in regard to Heyes & Co. using first the full name, on one occasion, his initials on another occasion, and having a separate mailing address.

BY MR. GRUMMETT:

Q. Is it necessary to have a new license each time there is a little change in the name?

A Not a new license, but an amendment would have to be made so that the records would correspond --

Q. With the new name?

A Yes.

BY MR. JOLLIFFE:

Q. There would have to be an amended license?

A Yes.

Q When Heyes changed his address, did he notify you that he was doing that?

A No, he did not, no.

Q So there was no amended license in that case?

A That was a case of a fraud order. I am referring to a case where they say they changed their name. They were bound to change their name or abandon their "trade name" as we call it in this country, and use their own name, because the United States authorities said the firm name was a fictitious name.

BY MR. GRUMMETT:

Q. It affected the dealer?

A Yes.

Q It would not affect his standing as to his reliability? It would simply affect some trades in the United States?

A They stopped his mail.

BY MR. JOLLIFFE:

Q. Heyes did more than that. He did more than just drop his trade name, and start using his own name. It was more complicated in his case.

A I appreciate that, and he only got half-way through his issue when his registration was cancelled.

Q Before it was cancelled, did he ask for any amendment in his license?

A No, he was registered with us under one name, and one name only.

Q Then do I understand you to say there have been

no cases of the kind here described (indicating) -- let us be fair about this; this is a case where a fraud order was made against a broker; he moved to a new address; he changed his firm name and he gets his license amended so that it shows the new name.

A Here (indicating) is a case where a person traded under a name, such as "First Securities", which was a trade name, and supposing his name was John Smith, he would drop the "First Securities" and use the name "John Smith" so he would not be called fictitious and he amended his registration accordingly.

There are a number of them. For instance, Gordon Daley & Co., Inc.; not necessarily using the same name, but they formed an incorporated company and their registration was amended accordingly.

Some of them may have incorporated for other reasons beside fictitious names. They probably thought it was better business to operate as an incorporated company, rather than as a partnership or an individual.

BY MR. GRUMMETT:

Q. Would the United States authorities recognize an incorporated name as being a proper designation?

A Oh, definitely, Mr. Grummett. They recognize that in their own companies.

BY MR. JOLLIFFE:

Q. Did not some of those incorporations follow these United States fraud orders?

A Yes, I have just stated that.

Q Do you not think that was one of the reasons why they incorporated.

A No question about it -- the fraud orders and fictitious name orders. I gave the name of Gordon, Daley & Co.; that was supposed to be fictitious --

Q That is a different point. You have also mentioned the case of a man who carried on business under his own name or a firm name and then incorporated with a different name.

A There are cases of that sort, yes.

Q And some of them have followed the United States fraud orders?

A The United States and the Dominion.

Q Of Canada?

BY THE CHAIRMAN:

Q. Would they follow fraud orders?

A Some of them may have. I have not checked that.

Q Not to your knowledge?

A No. I did not have a complete list of fraud orders and fictitious name orders until April of this

year, and as far as the deal was concerned, one was the same as the other. It affected their business in the same way.

BY MR. JOLLIFFE:

Q. Let me give you an example; is it not a fact that there was a broker named Allison, who was denied the use of the United States mails? He then incorporated as "Greenwood Securities Ltd.". That is the case where the Greenwood Securities Ltd. got a license?

A Yes.

Q You see, Mr. Lennox, the inference which is drawn from that procedure -- whether it is justified or not -- there was some criticism both in the United States and Canada that your Commission lent itself to these changes of names or incorporations following the United States fraud orders, and that was calculated to deceive the public and the post office and they carried criticism to the point that your Commission should not lend itself to that kind of device.

A If it had been a case of opposing, or trying to operate against the Dominion authorities, I think it would have been very serious. Perhaps I should not say "very serious", but there could be a lot of merit in the criticism.

I do not think the Ontario Securities Commission has to operate for the benefit of the S.E.C.

Q I do not think anybody has ever suggested that, Mr..Lennox, and, quite frankly, I do not think the issue should be obscured by that kind of defence. Is it in the public interest of the people of Ontario, that anything whatever should be done by anybody in Ontario, to facilitate changes of names or changes of identities on the part of people who are violating the laws in a foreign country? Is that in the public interest?

A Possibly not, that is a matter of opinion.

But suppose Allison said, "I want to incorporate for my own protection to limit my liability, and the Commission has no right to prevent me invoking the laws of the land, in order to limit my liability", what could the Commission do then?

It would be the obvious thing for Allison or any other person to say that.

Q It would be more convincing if it was at the beginnings of his operations, rather than just after the fraud order?

A Definitely.

MR. GRUMMETT: Or the fictitious name order?

BY MR. JOLLIFFE:

Q. Now, I think it is only fair to get this cleared up, too.

The original Board of the Broker-Dealers' Association was appointed by the government?

A Yes.

Q And the present Board was elected by the members?

A Yes.

Q You had no part in that election?

A No.

Q So you are not responsible in any way for the identity of any members of the Board?

A No, I am not. I was not responsible for the first Board either.

Q You were not the Commissioner then?

A No.

BY MR. HOUCK:

Q. I think you told us that all the broker-dealers do not belong to this Association.

A They do now.

Q They did not have to, before.

A There was one year they did not all belong.

BY MR. JOLLIFFE:

Q. And thereby hangs a tale.

THE WITNESS: I have the figures of the members of the Broker-Dealers -- the number of the broker-dealers who are registered. There are 135 firms or individuals registered as broker-dealers, that is, holding a single registration as a broker-dealer.

There are 26 members of the Toronto Stock Exchange who are also registered as broker-dealers.

There are 2 individuals registered as broker-dealers, members of the Toronto Stock Exchange, and members of the I.D.A.

There are 8 members of the Toronto Stock Exchange who have dual registration, that is, as a broker, a member of the Toronto Stock Exchange, and as broker-dealer, who are not members of the Broker-Dealers Association, by virtue of the fact that they^{do} not engage in primary distribution, and they simply took out a broker-dealers registration to protect them in case they took down stock.

Q Is that in addition to the 26?

A Yes.

Q And they are not members of the Broker-Dealers Association?

A No.

Q. They should be excluded then. They are not strictly speaking, broker-dealers?

A No. It is just a matter of protection. Any member of the Stock Exchange who intends to engage in primary distribution was obliged to be members of the Broker-Dealers Association.

The Assistant-Registrar here (indicating) has indicated one member as non-member of the Broker-Dealers Association. I do not know if that is the same chap from Western Ontario, who has been exempted throughout. That takes me a little bit by surprise. It may be the same one who was exempted from the start.

Q Then it comes to this; including all the members of the Stock Exchange and the I.D.A., there are 135 licensed broker-dealers?

A That is right.

Q But this figure would not include the man who was cancelled yesterday?

A I think the Assistant-Registrar has eliminated him.

MR. GRUMETT: As well as you have.

BY MR. JOLLIFEE:

Q. I want to look for a moment at that figure of "135". I think I am correct in saying -- although

I have not been able to count them in this list -- that about 35 of those are from out of town?

A I think it would be in that neighborhood.

Q That 35 was the actual figure in April. I counted the list in your April bulletin, and 35 had out-of-town addresses.

A Well, Ferguson, of Brantford, resigned around that period, and it is either 35 or 34.

Q These 35 out-of-town men do not engage in big distributions on their own, do they?

A They sometimes participate in --

Q With those associated with Toronto houses?

A Yes.

Q But they do not initiate distribution?

A Very, very rarely. I think Mr. Dean up in your district has a promotion issue, but, as you say, it is very rarely they initiate one.

Q Have you every known any of these out-of-town houses to stage a mailing campaign to North Americans?

A Well, Orser & Carey, from Kingston and Toronto --

Q Did they lose their license?

A Yes.

Q And they were associated with a Toronto house were they not?

A They originated in Kingston, and opened up a

branch in Toronto, and then they called the Toronto office the head office and the branch office in Kingston.

Q But did not your findings indicate that it was as not/it appeared to be; that they were not independent operators?

A Yes.

Q But, in any event, they are not now registered?

A No, they are not.

Q That solves those 35. I suggest to you there are another 20 or 25 of the broker-dealers who are not very active this year.

A I would say possibly more.

Q Would you say 25 would be a safe figure?

A I would not dispute your figure of "20", but I certainly would not say it was any less.

Q At least 20?

A I would think it would be at least 20. Of course, something turns on what you call "active". They are certainly not active in primary distributions. There are some of them you do not hear very much about. I think they are broker-dealers, and they probably have a fair little brokerage business, and have clients. Some of these houses we have been criticizing do not have clients; they have mailing lists. But these little fellows really have clients.

Q And they trade in listed stock?

A Yes, because they happen to have a clientele, and they go to a listed house, to fill their orders.

Q So of the 1935 broker-dealers, 35 are out of town; that brings it down to 100, and if another 20 are small houses which do not engage in primary distribution, that leaves us with a maximum of 80 who actually engage in primary distribution.

I take it the 35 that you have been having
are
trouble with in that group of 80?

A Yes, pretty much; although some of those cease and desist orders are against people who are fairly inactive.

Q Now?

A Yes.

Q Does it not come to this, that your trouble-makers are pretty close to one-half of the active broker-dealers who engage in primary distribution?

A Well, there are about 35 left now out of 80, on your figures. 35 out of 135 leaves 100, and 20 are not active. That leaves 80. And the bad group who used to constitute 50 percent., I would consider to be down to about 35 now. There were 50 when the registrations, rather than being a total of 172, went up as high, at one time, as 200.

Q They are down to about 35 now?

A Yes.

Q 35 out of 80 is pretty close to one-half, is it not?

A Yes.

Q That leaves a balance of 45, and of those 45, I suggest to you that most of them, whom you do not regard as trouble-makers, are not big enough to indulge in primary distribution on any scale? What do you say as to that?

A Oh, I don't know. They do not engage -- there is one house, one of the oldest houses in the unlisted business, and it is big business. They do not get into trouble, but they promote a lot of mines and have an extensive clientele. As far as having the wherewithal to engage in large-scale campaigns, they could out-distance a number of these other ones, they have got the financial backing, and everything else, in their own right.

Q There are some broker-dealers on the list, I notice, who are certainly not very substantial -- individuals functioning almost alone.

A No question about that, Mr. Jolliffe. For instance, --

Q Who have just come into the business quite

recently?

A Take, for instance, when the group broke away from the Broker-Dealer's Association -- apart from the members of the Stock Exchange, which broke away -- included in that group there was only one of them throughout the year which engaged in primary distribution at all, to my knowledge.

Q It appears to you that these people about whom we are talking -- the 35 out of 80 -- are divided into two factions?

A No, they are not divided into two factions. When you talk about "fronts" there are two camps of "fronts".

BY THE CHAIRMAN:

Q. You do not mean that the 35 which you class as causing some trouble or anxiety, are necessarily "fronts"?

A No, Mr. Chairman. The story goes on Bay Street that so-and-so is a "front", and so-and-so is a "front", but one is classed as "A" and the other is in class "B" --

MR. JOLLIFFE: Call them the "blue team" and the "red team".

THE CHAIRMAN: Or the "grey team".

THE WITNESS: It is like the National League and the American League in baseball.

BY MR. JOLLIFFE:

Q. Is there an American League in the brokerage business?

A No. The "red team" and the "blue team" is much more appropriate.

Q There is no international discrimination?

A Oh no.

Q What led you to mention these two factions in the first place? I take it they have both been in touch with you, and they have both made complaints to you about each other?

A No. I anticipated some difficulty of having a holiday between stations.

The way I first introduced the question of "factions" was when I was indicating that one of the greatest concerns of the Commission turned on the question of large mailing, and one faction sent the word around -- this is the way I analyze it; I may be wrong; the Commissioner generally always is wrong -- but one faction sent the word out that the other was going to engage in a big mailing.

Whether I believed that or not, it was a very

dangerous situation because the little fellows would say, "Well, if the big fellow is going to start a lot more trouble with the postal authorities and spoil our business, we might as well get in on the last fling".

That was my real concern at the time. That was why we took the investigators off of pressing work, and pretty well covered the whole situation by spot-checking, to try and get it under control.

Q Was that the point where you asked for an armistice on mailing?

A No, I never asked for an armistice on mailing. That was the year before.

Q That was in 1950.

A I think it was. I had these things pretty well in my head before, Mr. Jolliffe. The broker-dealers agreed to an armistice of sixty days.

Q Yes, I made a note of that. That was in February, 1949?

A Yes.

Q You conferred with the B.D.A. about it, and an armistice was arranged at that time?

A Yes.

Q Of sixty days?

A Yes.

Q And it was subsequently alleged to have been

violated?

A The way I heard of it was this; that the armistice was subject to this qualification, that any person who had their mailing all ready, could complete mailing, and the complaint on the street by a certain section was that the inside group had been tipped off and had taken every precaution to have their mailing all ready to go.

Q That was the first occasion on which you encountered the two factions? The two factions were involved?

A That was earlier. I did not know about the factions then. At that time I just thought it was an inside group and an outside group.

Q Coming back to the early part of this year; you said there was again a critical situation because of stories of large mailings.

A It started in December of last year.

Q You were beginning to state what action you took on that.

A We started a survey of spot-checking, checking here and there, in relation to the houses we knew had the wherewithal to send out large mailings, and we exacted promises from two individuals to restrict their mailings over a period of sixty days.

Really, that rather intensive checking was the forerunner of quite a few cancellations.

Q Your investigation, as a result of these rumours, led to unearthing evidence which caused you later to cancell licences?

A In quite a few cases.

Q In other words, the enquiries were protective?

A Yes. As a matter of fact, the practice was one we got a complaint and made a check on it, it generally came out that it was something entirely different, and the ground for cancellation rarely was actually based on a particular complaint.

Q Do I understand that both the factions you mentioned above, have representation on the Board, or just one?

A I am inclined to think only one.

MR. DOWNER: Whoever had the larger group --

BY MR. JOLLIFFE:

Q. There were some changes at the last election?

A Yes.

Q You might almost say the government was thrown out, and the opposition went in? Is there any truth in that?

A That is about it.

THE CHAIRMAN: A thing that seldom happens elsewhere.

MR. JOLLIFFE: It happens sooner or later, Mr. Chairman.

BY MR. JOLLIFFE:

Q. I do not think we have it on the record but I suppose we can get it from the Broker-Dealers' Association, the personnel of the Board at the present time.

A Oh yes, I can give you that.

Q Can you give it to us from memory?

A Yes. Mr. John Rogers.

Q He is President?

A Chairman. Mr. Clifford Wilson, Vice-Chairman; Mr. Arthur White, Mr. Williams, Mr. Perrin --

Q That is "P-e-double r-i-n"?

A Yes, P-e-double r-i-n.

Mr. Henley. That is seven. Mr. Knight, is eight, and Mr. Stearns, another member of the Stock Exchange.

Q Mr. Knight is "K-n-i-g-h-t"?

A Yes.

Q And how do you spell "Stearn"?

A "S-t-e-a-r-n-s".

Q Which members of the Board are connected with the Stock Exchange?

A Mr. Rogers, Mr. Stearns and Mr. Knight.

Q And who is the salesmen's representative?

A Mr. Henley.

Q The others are just broker-dealers?

A There is Mr. Lumsden, from out of town. That makes ten?

Q No, that only makes nine.

A I had forgotten Mr. Lumsden from Stratford.

Q He is the out-of-town member?

A Yes.

Q There are ten altogether?

A No, nine is right.

Q And did you ever attempt any other mailing armistice in December, when you heard the rumours you did?

A No.

Q You just investigated?

A This time I thought the Commission had better handle it.

Q Do I understand you to say that you did initiate the armistice in 1949?

A No, I did not.

Q Who initiated it? The B.D.A.?

A The Broker-Dealers.

Q The B.D.A.?

A Yes.

Q And you agreed with them?

A Yes, I agreed with them, in view of the situation. I do not believe, as a general principle, that one day you should be doing business and the next day you should not. But I th^{rough} in view of the serious situation, they probably had reached a sound solution.

Q What do you mean by a "serious situation"? What was the justification for that armistice? Why should a group of business men have to abandon their business activities for two months if it was a legitimate business?

A They recognized a number of them were sending excessive mailings to the United States and were causing adverse publicity in the United States, and they started to try and remedy the situation.

Q I do not understand what is meant by "excessive mailings". Perhaps you can help me. Exactly what is meant by that term? What is the difference in principle between sending 10,000 pieces of literature to the United States, and sending a million?

A I think when mailing gets ^{to}/a point to where it is a nuisance, I cannot investigate every angle to

that thing, but representations were made to me at one time that the Post Office in Buffalo was absolutely jammed, and was almost inactive owing to the Canadian mailings.

I heard of another case down in a little town in Virginia where the local post office, with some elderly people running it, were flooded with Canadian mail. I know that to be true.

I know Mr. King, the Commissioner down there, and I have every confidence in him. The people of Virginia were not taking to it very kindly, because the people in the Southern States have not been subjected to these kind of things before. It was mostly the border points which were affected.

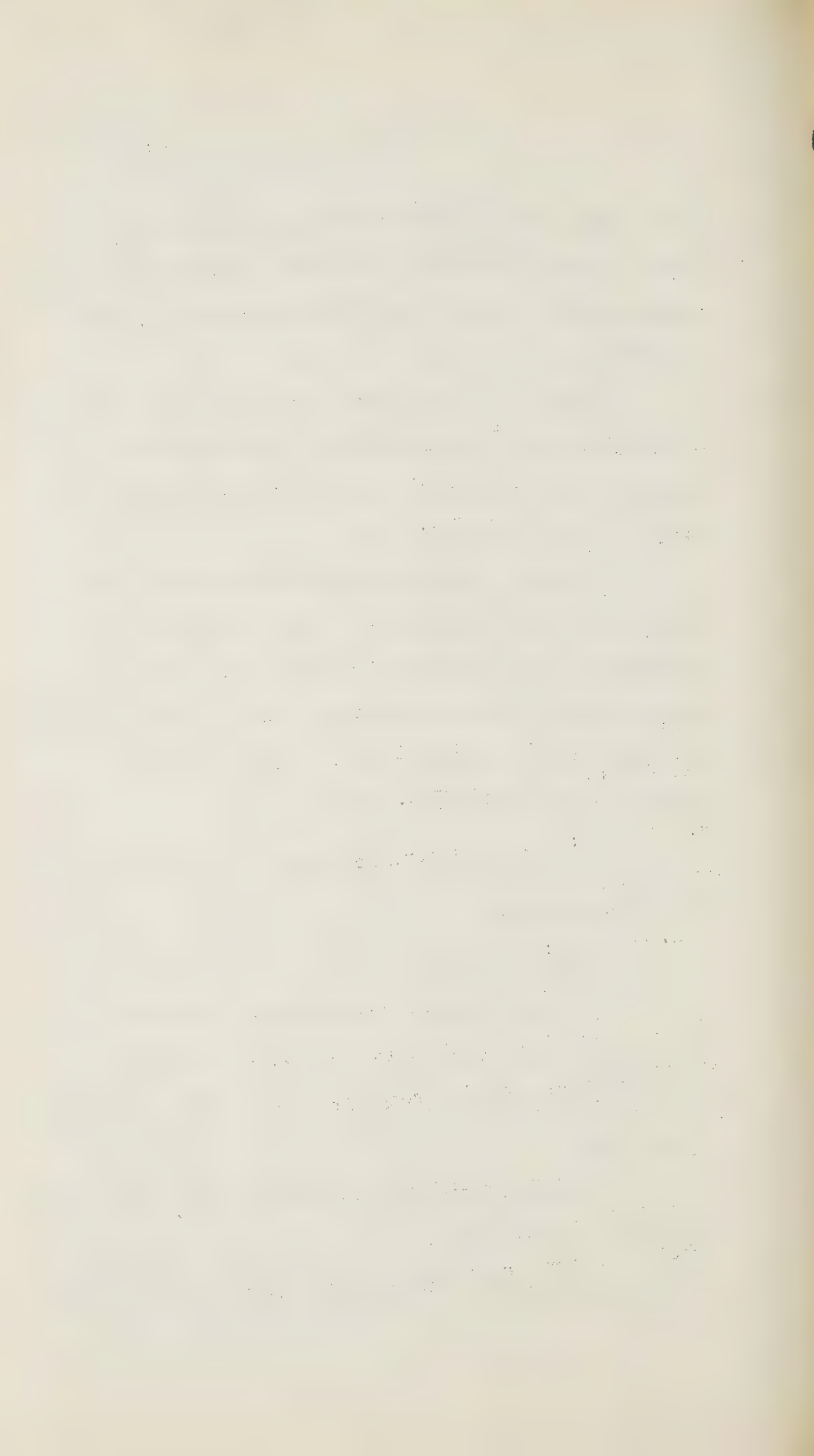
MR. GRUMETT: We might send for the postmaster from Bourlemacque.

BY MR. JOLLIFFE:

Q. Apart from any inconvenience which might be caused to the post office, if it is legitimate to send in this literature, what is wrong with sending a lot of it?

A I can only give you the information I have given. I do not know any more.

Q I appreciate a very large mailing would probably



create some uproar, more than a smaller one, and, therefore, might have some nuisance value, but surely the administration of the laws of this province should be governed by considerations of principle, rather than considerations of that sort.

A Perhaps you had better ask the B.D.A. about those things, because it was their idea.

Q I certainly will ask them. Perhaps I have said too much about the B.D.A.

I do not think I asked you whether the Investment Counsellors are required to send copies of their material to your Commission.

A No, they are not.

Q They are not?

A They send to us as a matter of record, but we do not peruse it.

Q Are they required to send it to you? Is that a condition of their license?

A It was a condition I found when I took it over, and it has been continued.

Q I am not criticising it. That is a condition of the license, that they should send to you, copies of the material which goes out.

A I do not know that I can put it that way, Mr. Jolliffe. I found that they were sending it as a

matter of record, and I thought it was good policy and it has been continued.

Q I am still not clear. Do they do this themselves voluntarily, or are they required to do it?

A I take it they were required to do it, because I cannot conceive of them doing it voluntarily.

Q And they are still doing it?

A Yes.

BY MR. GRUMETT:

Q. Mr. Lennox, exactly what are the functions of an investment counsellor?

A There are two classes of investment counsellors. There are investment counsellors, type No. 2, which perform a very useful function, I consider. They advise people and assist with their portfolios, and one thing and another, and they get a percentage as a fee on the value of the portfolio. If the market value of a portfolio is \$100,000 their percentage is one percent. and that is \$10,000. That is their type of remuneration.

The other type of investment counsellor issue bulletins or circulars with some form of information, and they charge a subscription rate for that -- this is the hard way; they advise people about the value of securities themselves. If they happen to strike it

lucky, they will say, "John Smith, I told you to buy so-and-so a month ago and look at it now".

All they do is follow the market trends. If they hit the market trend, they are in the "chips" as they say. If they do not, they are all wrong.

Q They are boosting certain stocks, too, are they not?

THE CHAIRMAN: Not legitimately.

THE WITNESS: We found that a lot of them are running "tipster sheets". There is a decision in the bulletin which shows our position on that. There are four or five survivors of type No. 1 out of 15 which were registered at the beginning of this year. I think, as a matter of fact, there are seven survivors. I do not say there was disciplinary action against any of them. Some of them resigned voluntarily. Some of them were invited to resign and some of them were cancelled.

BY MR. CULBERTT:

Q. Do you not think that the name "investment counsel" is a misnomer? These men are not strictly acting in an advisory capacity; they go out and look for their clients and they solicit clients, and they send out circulars, and so on? Strictly a counsellor should be man to whom the investing public can come

for explanation and advice.

A I think that point is an excellent one. I think the investment counsellors could advise on portfolio. A lot of them are people of the type who would be recognized as expert witnesses in a court of law. One testified in an estate case for me at Osgoode Hall. There should be a distinction made between them, and the number 2 type of investment counsellors should be able to carry on under that designation --

Q And the type number 1 removed from it?

A Yes, classified in some different way. It would certainly be a very popular suggestion with the type 2 counsellors, I can assure you.

THE CHAIRMAN: Shall we adjourn?

THE WITNESS: May I have one minute, Mr. Chairman?

BY THE CHAIRMAN:

Q. Yes.

A I have just received a memoranda about the non-member broker-dealer. I should have remembered this. I gave you the wrong information. It was a mistake on the part of the registrar. He let him through in the rush of business at renewal time. We knew this fellow wanted to be registered as a non-member, and through

inadvertence, went through. Both the B.D.A. and the Commission slipped up on it.

BY MR. JOLLIFFE:

Q. So he is the lone stand-out?

A Yes.

Q And I suppose that is the situation for this year?

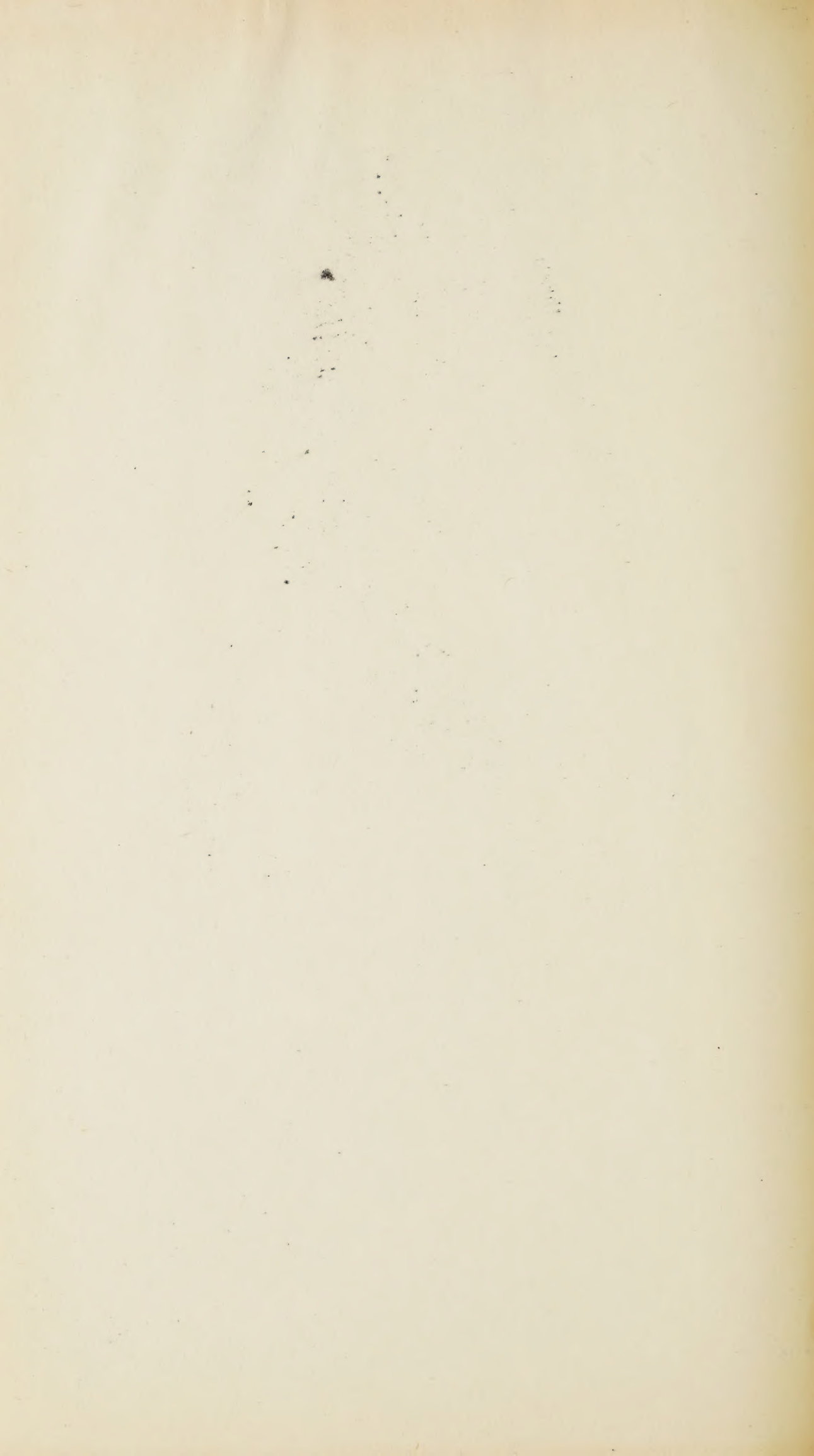
A Yes.

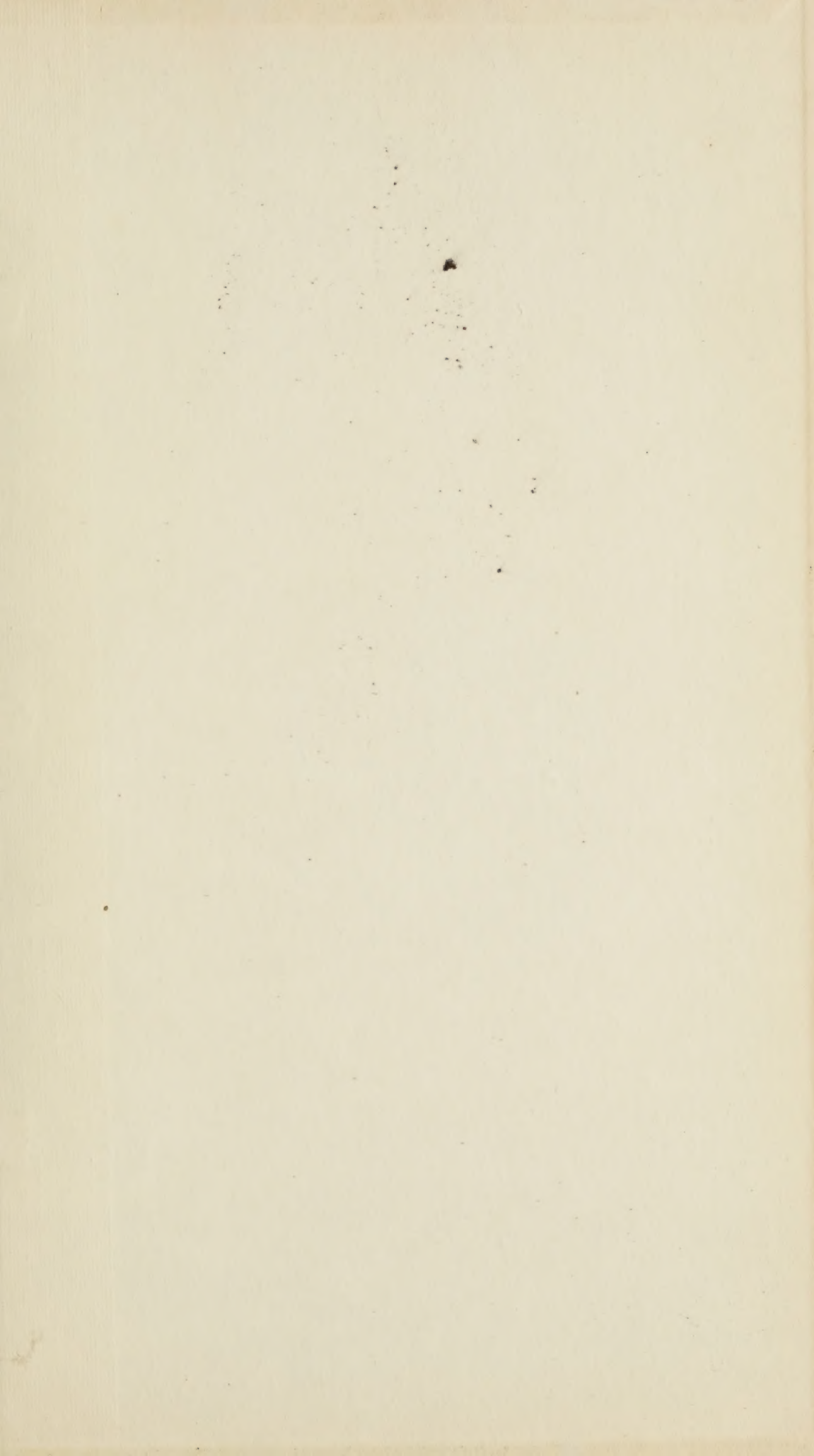
THE CHAIRMAN: We will adjourn now until 10.30 tomorrow morning.

---The witness temporarily retired.

---Whereupon at 5.10 o'clock in the P.M. the proceedings of this Committee adjourned until Thursday, August 23rd, 1951, at 10.30 o'clock in the A.M.

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